THE
Traveller's Guide,
AND,
The Country's Safety.
BEING
A Declaration of the Laws of *England* against High-way-men, or Robbers upon the Road;

What is necessary and requisite to be done by such persons as are robbed in order to the recovering their damages;

Against whom they are to bring their Action, and the manner how it ought to be brought.

Illustrated with variety of Law Cases, Historical Remarks, Customs, Usages, Antiquities and Authentick Authorities.

By *J. M.*

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TO THE

READER.

TO travel the Road in safety is none of the least advantages we receive by the Laws of *England*; for by them it is that we are protected from the violence of those discontented, designing, profligate Wretches, the Robbers upon the High-way; fellows by their own Heraldry intitling themselves *Gentlemen of the Road*, and glory in their invention of the most *Gentile* Trade of Ruining Mankind; when, alas, if you look into their *Pedigree*, you will find them so

far from men of Honour or Vertue, that nothing can be made of them but a pack of idle diſſolute Raſcals, the beſt of them but *Cadets*, moſt commonly the ſpawn of broken Tradeſmen and worſt of *Debauchees*.

But we deſign not ſo much by this Treatiſe to give the *Character* of theſe *Diſturbers* of the Quiet and Repoſe of *Mankind*, as to ſet forth what good and wholſome Laws have been formerly made by our diſcerning *Anceſtours* againſt them, and how the honeſt *Traveller* may obtain a *Legal Recompence* for the Loſſes he ſuſtains by ſuch Cattel; The main ſcope and intent of this Diſcourſe being to ſhew,

That, whereas by the Statute of *Winton*, made in the Thirteenth year of King *Edward* the Firſt, If divers perſons

perſons had committed a Robbery, the Hundred ſhould have been amerced, if they had not apprehended all the Felons; and how that by the Statute of the Seven and Twentieth of *Eliz.* Chap. 13. a new Law is made in theſe points following,

1. None ſhall have an Action upon the ſaid Statute 13 *Ed.* 1. except that the party robbed, doth give notice, as ſoon as he can, of the ſaid Felony, to ſome of the Inhabitants of ſome Town, Village or Hamlet, next to the place where the Robbery was done.

2. If they in their purſuit apprehend any of the Offenders, That ſhall excuſe them, although that they do not apprehend them all.

To

To which is added, for the benefit of Clerks and Attorneys, variety of Precedents, from the Declaration to the Execution, in all Cases relating to the prosecuting of the Hundred where the party is robbed, that nothing may be wanting to compleat a Work so profitable both to the Attorney and his Client.

J. M.

THE

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Traveller's Guide,

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What is Robbery.

ROBbery is the felonious taking of any thing from the perſon of another againſt his will, whereby the perſon is put in fear; though the thing taken be but to the value of a peny, for which the Offender ſhall be hanged.

Yet in ſome caſes it is not neceſſary that the thing whereof the party is robbed be actually taken from his perſon, for if the Robbers obtain it by force and menaces, though the owner himſelf delivers it to

them, yet this tantamounts to a taking from the person; for the Law respects the original cause (*viz.*) the threats and menaces which necessitated the Propriator to quit his goods for the preservation of his life and person; As if one command another presently to deliver him his purse, or otherwise he will kill him, which he does accordingly, this is Robbery, for the danger he confessed himself to be in by reason of those threatnings was the cause and motive of that delivery; So if two or more take a man and by force compell him to take an Oath to bring them such a sum of money, and if he does not they threaten to kill him; Though he brings it in pursuance of his Oath, and delivers it to them and they take it, yet this is Robbery, notwithstanding that by this inforced Oath he was not bound in conscience to bring them the money; for he took it for fear of death, and so not voluntarily; If Felons come in the night to rob me in my house, and I, fearing lest they shou'd enter

the

the house and rob me, and, to prevent their entry, I throw money or plate, &c. out at the window to them, which they take and depart, this is Robbery; for, in construction of Law, it is the same as if they had taken it from my person. 44 Ed. 3. 14.

If Felons take goods openly in a place where the Owner is present, and thereby put him in fear, or take his horse or drive his cattel out of his pasture or fold, he standing by and looking on them, so that he be terrified by their violent carriage, menaces, assaults or otherwise, this is Robbery in the takers, and the Law supposes it to be done with such violence that he is not able nor dare not to resist them, *& in privata causa nemo tenetur exponere se periculis.* 22 Ass p. 39. Fit. Car. 115.

The putting the party in fear is an especial part of a Robbery, without which, in estimation of Law, no Robbery can be committed; for if I be travelling upon the road, and one comes by and takes my money from my pocket, or my sword from 5 Eliz. Dier 224.

my ſide unknown to me, this is Felony but no Robbery.

The taking away of ſomething from the perſon, either in Fact or Law, is as neceſſary an ingredient to make a Robbery as the Putting of the party in fear; As if one lies in wait in the high-way to rob paſſengers, and he bids a Traveller which comes along to ſtand and yield him his purſe, if the Traveller upon reſiſtance overcome him, and either apprehends him or puts him to flight, though there was a deſign and an attempt to commit a Robbery, yet, *voluntas non reputabitur pro facto*, and though the Law adjudges this intent to be no Robbery, yet it ranks it, and that not undeſerved, amongſt the higheſt of miſdemeanours.

9 Ed 4.26.

So that the difference betwixt Robbery and a Theft is that, That one is done openly and with force, the other ſecretly and ſurreptitiouſly; And if any thing be taken from a man openly and in his preſence, and his perſon is not thereby put in fear, this amounts onely to a treſpaſs.

A Tra-

A Traveller may justifie the killing of any person who shall attempt to rob or murther him upon the way, and that without the forfeiture of either lands, goods or chattels; This point of the forfeiture was somewhat disputable at the Common Law; Some would have it to be the same with killing of a man by chance-medly, or *se defendendo*; but this point hath been cleared by an explanatory Act made in the 24 *H.* 8. *cap.* 5. where it is declared, *That if any person or persons do attempt feloniously to rob or murther any person or persons in or nigh any common high-way, cart-way, horse-way or foot-way, and if any such evil disposed person happen to be killed or slain in such attempt, and he that so killed him be thereof indicted or appealed, That the person or persons so indicted or appealed, and of the same by verdict so found and tried, shall not forfeit or lose any lands, tenements, goods or chattels, for the death of any such evil disposed person in such manner slain, but shall be thereof and for the same fully*

22 *Ass.* 55. 26 *Ass.* p. 23 & 32. Co. li. 5. 91. *Fit. Coron.* 30. & 305.

acquitted and discharged, in like manner as the same person or persons should be, if he or they were lawfully acquitted of the death of such evil disposed person or persons.

Where and how the party is to have restitution of the goods whereof he was robbed, upon an Appeal or Indictment.

AT the Common Law, before the Statute of *Westminster*, the person robbed had no other satisfaction but onely restitution of his goods, in case he made fresh pursuit after the Robber, and convicted him at his own Suit (*viz.*) by an Appeal of Robbery. The Law is so eager to have Felons apprehended, that if the party does not use his utmost endeavours to get the Offender taken, it punisheth him with the loss and forfeiture of the goods stolen; So that if the Malefactor be convicted at the Suit of the party, yet if the Jury does not find

find that he had made fresh suit after the Felon, the goods stoln are forfeited to the King, and no restitution can be made of them.

As the Law condemns the not pursuing or in slack and faint pursuit of Robbers; so it rewardeth diligent endeavours though they meet with no success: for if a Felon which committed a Robbery be not taken by the space of a year after the Felony committed, yet if the party that was robbed doe his endeavour to apprehend the Felon, and make diligent and special enquiry for him, and after he be taken, though not at the suit of the party robbed, yet that shall be adjudged a sufficient fresh suit, and upon his appeal brought, and the Offender convicted, he shall have restitution of his goods robbed; and if this fresh suit was made by a Servant, and not by the party robbed himself, it is sufficient to procure him restitution.

Conviction without Attainder is sufficient to entitle the Appealant to a restitution, though in ancient

times ſome opinions have been to the contrary, and that no reſtitution could be made untill after attainder, and in ſome caſes where no attainder could be (as where the Felon died in priſon before the Owner had commenced his appeal) though the ſuit was never ſo freſh, *Fit. Coron.* 319. 8 *E.* 3. 10. But now it is agreed that if after the appeal commenced the Felon die in priſon or break the priſon, the freſh ſuit ſhall be enquired, and if found, the party robbed ſhall be reſtored to his goods, *Fit. Coron.* 379. 26 *Aſſ. p.* 32. So if the Malefactor ſtand mute or challenge peremptorily above the number which the Law does allow, or demand his Clergy, in every of theſe caſes the freſh ſuit being found by inqueſt, the Appealant ſhall have reſtitution of his goods, for he had done all that he could in order to an attainder.

If an appeal of Robbery be ſued againſt the Principal and Acceſſory, and the Principal be attainted and the freſh ſuit is found, reſtitution ſhall be made of the ſtoln goods with-

without profecuting the ſuit againſt the Acceſſory, and yet his continuance of the ſuit againſt the Acceſſory ſhall not hinder his reſtitution, for that the principal Felon is attainted by his procurement; and the Appealant ſhall have reſtitution whether the Acceſſory be attainted or acquitted; In the ſame manner the Appealant ſhall have reſtitution where he ſues an appeal againſt two as Principals and one of them is acquitted, 21 *Ed.* 4. 16. 10 *H.* 4. 5. If one man rob divers men, for which they bring their ſeveral appeals, and the Felon is attainted at the ſuit of one of them, and the freſh ſuit is found, in this caſe the reſt ſhall not have reſtitution untill the Offender be convicted at their ſeveral ſuits, and likewiſe the freſh ſuit ſeverally found.

There are ſome opinions which hold that if the Appealant ſue the Robber to the outlawry that he ſhall have reſtitution of his goods without enquiring of the freſh ſuit, for that he had proſecuted againſt the Appealee as far as the Law gave him way.

An enquiry must be made of the fresh suit before any restitution can be awarded; and that too before the Justices and not the Sheriff, and by the Jury that convicted the Defendant of the Robbery: But in case the Defendant doth confess the appeal, then it must be enquired of by a *Visne* from that County where the Robbery was committed, and where the appeal is brought, except it be brought in *London*; for that the City hath a privilege not to be forced to appear upon Juries out of the City; And it cannot be taken there by *Nisi Prius*, because it is but an inquest of Office; Therefore in this case the *Visne* shall come from that County where the Robber was taken, and so it shall be enquired by the people of that County.

In the first place the Court is to ask the Defendant in the appeal if he claims any property in the goods; which if he says he does not, then it must be enquired if the goods were the Plaintiff's at the time of the Robbery committed, and

and alſo enquire of the freſh ſuit.

If the Manner (*viz.* the ſtoln goods) wherewith the Felon is taken be portable, or that it can be otherwiſe done with conveniency, it ought to be brought into the Court before the Juſtices, and if it be in a trunk, box, cheſt or cloakbag, *&c.* the Appealant muſt tell particularly what goods there are in it before it be opened, or that he can have reſtitution.

The Appealant's freſh ſuit being found by the Inqueſt, the Court ought to award him reſtitution of all the goods contained in his appeal, which the King's Officers or any other had ſeiſed to the King's uſe.

Having ſhewed how the party robbed might obtain reſtitution of his goods by Appeal, in the next place falls under conſideration the caſe of an Indictment: At Common Law, if the perſon robbed had ſteered his courſe this way he had certainly ſplit himſelf upon the rocks; for reſtitution could in no caſe

case be awarded upon an Indictment, though the Jury that found the Offender guilty of the Robbery had likewise found the fresh Suit. To remedy this inconveniency an Act was made 21 *H.* 8. *cap.* 18. whereby it was enacted, *That if any Felon or Felons do rob or take away money, goods or chattels from any of the King's Subjects, from their person or otherwise within this Realm, and thereof the said Felon or Felons be indicted, and after arraigned of the same Felony and found guilty thereof, or otherwise attainted by reason of evidence given by the party robbed or owner of the said money, goods and chattels, that as well Justices of Goal delivery, as other Justices before whom any such Felon or Felons shall be found guilty or otherwise attainted by reason of evidence given by the party so robbed or owner, or by any other by their procurement, have power by this Act to award from time to time Writs of restitution for the said money, goods or chattels in like manner as though any such Felon or Felons were attainted at the Suit of the party in appeal:* So that by virtue

virtue of this Act the party robbed may have reſtitution upon evidence given by himſelf or by any other by his procurement notwithſtanding that he made not any freſh Suit.

If the Servant be robbed of his Maſter's goods, the Maſter may give evidence againſt the Felon by virtue of theſe words (*the party ſo robbed or owner*) And if the party robbed does not give evidence himſelf but procure another to doe it, this is ſufficient within the words of the Statute to enable him to obtain reſtitution.

If one man do rob goods from three men ſeverally, and he is indicted for the robbing of one of them, and thereupon arraigned; though the other two would give evidence againſt the Malefactor, yet they ſhall not have reſtitution of their goods within the intent and meaning of this Act, for the Felon is not attainted of any other Robbery but that whereof he is indicted: But if he be indicted of all the three ſeveral Robberies ſeverally,

rally, and arraigned upon one of them, and convicted upon the evidence given by one of the parties robbed, yet he shall be after arraigned upon the other two Indictments that he may be also found guilty by the evidence of the other two persons robbed; to the end they may have restitution of their goods.

Though this Statute speak onely of the party robbed, yet his Executors and Administrators are within the meaning of it: for it is a beneficial Law, and gives a more speedy remedy to the party robbed than the Common Law gave by way of Indictment, and therefore ought to be construed beneficially.

Of the Action upon the Statute of Wincheſter *againſt the Hundred.*

HAving shewed how and in what cases the party robbed may have restitution of the stoln goods, both

both upon an Appeal and an Indictment, now I shall proceed to shew what further remedy the Law gives him for his indempnity. At Common Law, if a man was robbed, he was presently to use his utmost endeavour to apprehend the Felon, and if he was found defective or negligent in this particular, the Law would give him no relief; and though there was no neglect in him, yet for want of the due and speedy assistance of others, which were obliged to joyn with him in the pursuit, perhaps the Robber was not taken untill such time as he had opportunity to make away and imbezle the goods; So that if it chanced that he was taken afterwards, the party was destitute of any sort of recompence, whereas if the Felon had been freshly and vigorously pursued from Town to Town, &c. as the Law does direct and require, he might have been taken with the Manner, and upon an Appeal brought and a conviction thereupon, the Owner was to have restitution of the goods which were stoln

ſtoln from him. It is true the Law did puniſh the Inhabitants of the place where the Robbery was committed, if, upon notice given to the Conſtable of the Town, the Huy and Cry was not raiſed, and all perſons within the Town were bound to follow the purſuit, which if they did not they were puniſhable by Fine and Impriſonment, this Cry was to be carried from Conſtable to Conſtable; and if any Town was indicted for the eſcape of the Felon, the purſuit with Huy and Cry to the next Conſtable was a good excuſe, a total neglect or at leaſt the faint and weak performance of theſe freſh ſuits being not duly puniſhed, Robbers did eſcape unpuniſhed, and that impunity was an encouragement to others to commit the like enormities, to the great and manifeſt danger of the King's Subjects travelling upon their lawfull occaſions. For the indempnity of perſons who ſhould ſuſtain any loſs by Robberies, and for the more effectual obliging of Cities, Towns and Villages, and to diſcharge

their duty with great care and diligence in the purſuing and apprehending of Felons, it was thought fit a Law ſhould be made, that if the Felons were not taken within ſuch a time, the Hundred where the Robbery was committed ſhould ſatisfie the party whatever he was damnified thereby; to that end there was a Statute made at *Winchester*, in the 13 *E.* 1. whereby, in the preamble thereof, is ſet forth the principal cauſe of the frequent eſcapes of Felons without being apprehended, and why the Laws which were then extant proved ineffectual to ſuppreſs and extinguiſh both Felons and Felonies, and whence the growth of them proceeded, for that Felons could not be attainted by the Oaths of Jurors, who had rather ſtrangers ſhould be robbed and the Robbers eſcape puniſhment than indict the Offenders, of whom great part were of the ſame Country, or at leaſt, if the Offenders were of another Country, the Reſarvors might be of places near; and they did this, becauſe no Oath

was

was given to the Jurors of the same Country where the Felonies were committed, and no Law obliged them to restitution of damages, nor any penalty limited for their concealment and Latches. And for that the fear of a penalty more than that of an Oath might be a greater engagement upon them not to spare or conceal Felonies, therefore it was enacted, *That if any Robbery*, &c. *be committed (if need requires) Inquest shall be made in Towns by him that is Lord of the Town, and after in the Hundred, and in the Franches and in the County, and sometimes in two, three or four Counties, in case where Felonies shall be committed in the Marches of Shires.* And it was further enacted, *That if the Country will not answer for the Bodies of such Offenders, the people of every such Country shall be answerable for the Robberies and also the damages, so that the whole Hundred, with the Franchises being within the precincts of the same Hundred, shall be answerable for the Robberies done. And if the Robbery be done in the divisions*

of

of two Hundreds, both the Hundreds and the Franchiſes within the ſame ſhall be anſwerable; And after the Robbery be done, the Country ſhall have no longer ſpace than half a year, within which time it ſhall behoove them to agree for the Robbery or Offence, or elſe that they ſhall anſwer for the Bodies of the Offenders.

But afterwards by another Statute made *An.* 28 *E.* 3. *cap.* 11. it is ordained *That the Country ſhall have no longer term after the Robbery committed than forty days, within which time they muſt make ſatisfaction for the Robbery or anſwer the Bodies of the Felons.*

The perſon robbed ſhall have an Action upon the Statute of *Wincheſter* againſt the Hundred, notwithſtanding that the Statute does not expreſly mention any Action; for when it ſays the Hundred ſhall anſwer for the Robbery and the damages; the Hundred within the meaning of the Statute is to be anſwerable to the party robbed; for he is the perſon damnified and intended to be relieved within this Act;

Act; and when the Statute gives him recompence or satisfaction for the loss he had sustained by the Robbery, the Law by implication gives him the necessary means whereby he is to attain to it, and that is an Action to be grounded upon this Statute. Process and Execution against the Hundred, I shall speak of at large in another place.

Co. li. 7. fo. 7. By the two aforesaid Statutes of the 13 *E.* 1. made at *Wincheſter*, and the 28 *E.* 3. the Country, if it did not answer for the Bodies of all the Offenders, must of necessity have made satisfaction for the Robbery, though (in case it was done by many) some of the Felons upon pursuit had been taken; but this is moderated by a Clause in the 27 *El. cap.* 13. whereby it is enacted, *If any Robbery be committed by two or more, and any one of them be apprehended upon such pursuit as the Law does require, that no Hundred or Franches shall incurr the penalty or loss or forfeiture mentioned in this Statute of the* 27 El. *or any of the two for-*

former Statutes, though the reſt of the Felons make their eſcape.

The party robbed was not limited to any time within which he ſhould bring his Action before the 27 *El.* which Act does provide, *That no perſon or perſons robbed ſhall take advantage by virtue of any former Act, to charge any Hundred where any robbery ſhall be committed, unleſs he or they ſo robbed ſhall commence his or their Suit or Action within one year next after ſuch Robbery ſo committed*; for if the Robbery be committed upon the firſt of *May*, and the original bear teſt the firſt of *May* following the Action does not lie, for it muſt of neceſſity be commenced within the year.

This Statute of the 27 *El.* doth likewiſe bind the perſon robbed to the performance of ſome conditions before he can be enabled to bring his Action, for the Act ſays, *That no perſon or perſons robbed, ſhall maintain any action of the two foremencioned Statutes, except the ſaid perſon or perſons ſo robbed, ſhall, with as much convenient ſpeed as may be, give*

give notice of the same Robbery so committed unto some of the Inhabitants of some Town, Village or Hamlet near unto the place where such Robbery was committed; Nor shall by virtue of the Statutes aforesaid bring any Action unless he or they shall within twenty days next before such Action to be brought, be examined upon his or their corporal Oaths to be taken before some one Justice of the Peace of the County where the Robbery was committed, inhabiting within the Hundred where the said Robbery was done or near unto the same, whether he or they know the parties that committed the Robbery or any of them. And if upon examination it be confessed that he or they do know the parties that did the Robbery, or any of them, then he or they so confessing, shall, before the said Action be commenced enter into a Recognizance before the said Justice to prosecute the said person or persons so known to have committed the Robbery by Indictment or otherwise, according to the due course of the Laws of this Realm.

So

So that these four things are absolutely necessary; 1. That notice with all convenient speed be given to the Inhabitants of the place near where the Robbery was done. 2. That the said Oath be taken before the Justice of the Peace within twenty days next before the Action commenced. 3. That he enter into a Recognizance to prosecute the Felons in case he knows any of them. 4. That the Action it self be brought within a year after the Robbery committed.

If the Servant be robbed of his Master's goods, the Servant is to give the notice to the Inhabitants, for he is best able to describe the Felons, and give information which way they are gone; so that the Country by his directions may the better pursue and descry the Malefactors, and the Oath required by the Statute, made by him is sufficient, because the contents of the Oath is, *Whether the party robbed knew any of the Offenders?* and a knowledge of the Robbers (within the meaning of this Act) is expected from none

none but the perſon that was robbed.

The Servant is likewiſe the perſon to be bound in the Recognizance, the Statute requires that, becauſe no perſon is ſuppoſed fitter to give evidence againſt the Offenders than he that was robbed by them. But the Action againſt the Hundred muſt be brought by the Maſter, for he is the Propriator: but if the Servant refuſes to make the Oath, or enter into the Recognizance before the Juſtice, *Quare*, What remedy the Maſter hath againſt him?

If a man be robbed in the Hundred of *A.* in the County of *B.* and he that was robbed takes the Oath injoyned by this Act before a Juſtice of the Peace inhabiting in or near the Hundred of *A.* at any place out of the County of *B.* the Oath ſo taken hath been adjudged ſufficient to entitle him to his Action, for by virtue of this Act he h th a ſpecial power (which is not confined to any place) to adminiſter this Oath whereever he be, and it

is

is not like that authority which he derives from his Commission, which is local, and can be exercised no where else besides in the County where he is constituted Justice of the Peace.

If several men be robbed at one time and place, the number of their Actions to be brought against the Hundred depends upon the quality of the property they had in the goods whereof they were robbed; for if they had several properties they must bring several Actions, but if they be joint Owners or Proprietors then they must all join in one Action, or so many of them as are so jointly possessed. *Dier* 370. pl. 59.

Where and how notice is to be given of the Robbery.

IT appears by the Statute of *Westminster* the 1st, made in the third year of *Edward* the First, That at

Common Law 'twas the duty of the Inhabitants to keep and guard the Country from Thefts and Robberies, &c. and in case any Felony was committed they were to pursue and apprehend the Felons, otherwise they were punishable for the escape of such Offenders: every Town was obliged at its peril to take notice of any Robbery committed within its precincts, though done (if in the day time) in a place never so secret; as if a man be slain in the Fields or Lane or any other private place belonging to the Town, if the Murtherer escape untaken, the Town was amerceable, though the Inhabitants thereof had not the least knowledge of it, for in many cases the Law doth presume a knowledge, as the Jury that is to try an Issue is supposed to have recognizance of the matter of fact in Issue between the parties; So if one be outlawed of Felony in the County-Court, and afterwards is received by any person of the same County, that receipt makes him accessary to the Felony, for the Law believes

Dier 210. pl. 25.

no

no man, residing in the same County, to be ignorant of what is transacted in that Court, to which generally every one owes suit and attendance. Likewise if one retain my Servant in the same County where I live, if I bring an Action against him for so doing, his ignorance of the fact in this case does not excuse him, for he is bound to take notice of the first retainder, but if he retains my Servant in another County, then the Law is otherwise; So also a man is bound to take notice of all Acts done upon his own freehold. The Statute of *Winchester*, which gives the Action against the Hundred, is general, and does not specifie any time or place when or where the Robbery is to be done, which makes the Hundred liable, yet the Sages of the Law have put such a construction upon the general words of that Statute, that the Robbery, which binds the Country to render satisfaction to the party robbed, must be committed in the day-time, and not in the night, and not in a pri-

vate place as a House, but openly,
Co. li. 7. fo. 7. so that the Country may take notice of it themselves, for it was not necessary for him that was robbed to levy any Huy and Cry, or give any notice of the Robbery to the Inhabitants of the Country, neither by the letter of the foresaid Statute of *Winchester* or by the meaning of it; for it may be that the person robbed was bound or maimed, *&c.* so that he could not raise any Huy and Cry or give any notice to the Country, and it is a general Rule in Law, that where the Law appoints no person to give notice, the party concerned himself is bound to take notice at his peril; as if a Church becomes void, by virtue of the Statute of the 21st. of *Hen.* 8. the Patron is bound to present at his peril within six months
Cro. par. 1. 258. after the institution and induction into the second Benefice, though all this be done without his having the least knowledge of it. But if a
Dier 292. Church becomes void by sentence of deprivation in the Ecclesiastical Court, and the six moneths after

which

which the elapſe is to incurr, is to commence but from the time of ſuch notice given, and the reaſon of the firſt caſe is the Church being *ipſo facto* void, there being no perſon whom the Law requires to give the Patron notice of ſuch avoidance, he is obliged to take notice of it himſelf. If a Tenant in Fee-ſimple convey the Eſtate to the uſe of himſelf for life, the remainder to his Wife for life, the remainder to his eldeſt Son in Fee, and afterwards enfeoffs *A.* with Warranty, and dies, the Wife and the Son enter upon *A.* and joyn in a Feoffment to *B.* the Heir being barred by the Warranty, this Feoffment is a forfeiture of the Wife's Eſtate for life, for ſhe was to take cognizance of the ſaid Feoffment made by her Husband, becauſe the Livery is a publick and notorious Act, and ſhe ought at her peril to take notice of this Act done upon the Land, none being bound to give her notice of it. *Cro. Car.* 393.

That this matter of the notice is now altered by the Statute of 27 *El.* whereby it is provided, *That no*

person shall maintain any Action upon the Statute of Winchester *or any other Statute, except the person robbed, with as much convenient speed as may be, give notice of the Robbery to some of the Inhabitants of some Town, Village or Hamlet near the place where such Robbery shall be committed:* yet it is not necessary that notice be given to those of the Hundred where the Robbery was done, but to the Inhabitants of any Village near adjoyning to the place where the person was robbed, though in another Hundred, for the Statute does not mention that notice be given to the Inhabitants of that Hundred where the Robbery was committed, and also by intendment the person robbed cannot know the divisions of the Hundred; And though notice be given out of the County, yet it is well enough, provided he makes it in a Village near adjoyning to the place where he was robbed; As in an Action brought against the Hundreds of *Dackorum* and *Cashoe*, the Plaintiff alledged the Robbery to be committed at *Shealey* and *Ridge in divisis*

Cro Car. 379.

Cro. Car. 41.

divisis Hundredorum de Dacherum & Cashoe in Com. Hertford, and that he gave notice of the Robbery at *South Mims*, in the County of *Middlesex*, near the Hundreds aforesaid, in this case the whole Court adjudged the notice given in *Middlesex* to be sufficient, and that the party robbed is no more bound to know the divisions of Counties than he is of Hundreds. And likewise notwithstanding that the words of the Statute are, *that notice be given near the place where the Robbery was*, yet the Court held that this allegation of the notice given at *South Mims*, near the Hundreds aforesaid, was well enough, and shall be intended in the division where the Robbery was done; So if a Robbery be alledged to be committed *in divisis Hundredorum*, &c. and notice given at such a place, *&c. prope divisis Hundredorum predict.* &c. it shall be intended to be given in the division of the Hundreds where the Robbery was done, and not in the most remote place thereof, for that should be a forein intendment, though it be

New Book of Ent. fo 348.

good either way, yet it is best to alledge the notice to have been given at the place where the Robbery was committed, or at a Village near unto adjoyning.

At what time the Robbery must be committed, to charge the Hundred by an Action upon the Statute of Wincheſter.

THough the Statute of *Wincheſter*, as I have ſhewed you in the foregoing Chapter, is general, both as to time and place, and that it hath been expounded not to extend to any Robbery, unleſs the ſame be committed in the day-time, for of Felonies done in the night the Country of it ſelf is not bound to take notice, for they cannot conveniently purſue or make enquiry after the Offenders in the night-time; And ſince the Statute makes the Country anſwerable for the

Co. li. 7. fo. 7.

the Robbery, it were too hard to require from them a performance of that which they are deprived of the ordinary and convenient means to effect. This Statute was expounded according to the rule and reason of the Common Law (as it may appear by the case of the 3d. of *Ed.* 3d. Tit. *Coron.* 293.) *That if a Murther or any other Felony be done in the night and the Malefactor escaped, the Town was not to be amerced for it.*

In this point of the time there is a difference between a pursuit for the King and for the party, upon the Statute, as shall be further demonstrated hereafter, when I come to treat of Huy and Cry; though in neither case the Law does constrain the Country to take cognizance at their peril of any Felony acted in the night: yet in case of a pursuit for the King, upon actual notice given of the Felony, the Law, upon Huy and Cry levied, expects the readiness and uttermost diligence of the Inhabitants to follow the Malefactors; As if a man 2 *Ed.* 4. 8. B 9. A

be robbed or assaulted and offered to be robbed, either in the day or night, if the person himself or any other resort to the Constable of the Town, and acquaint him with the cases, describing the person, and giving information which way the Offender is gone, and require him to raise the Huy and Cry, it is the duty of the Constable to raise the power of the Town, as well in the night as in the day, for the prosecution of the Offender, and if he be not found, there to give warning to the next Constable, and he to the next, untill the Offender be taken.

If a Traveller be robbed in the night, and gives notice to the Constable of the Village as aforesaid, though the Constable is obliged (as I have said already) to raise the Huy and Cry, yet this at the most is but a pursuit for the King, and the Traveller shall take no advantage of the negligence thereof, in case the Felons make their escape, for God hath ordained the day for man to labour and travel, as a fit

Co. ubi supra.

time

time for him to exercise his industry, and the night for his repose and quietness, being tired and wearied with his daily operation; and accordingly the Law supposes every person in the night to have retired himself from his labour to take his natural rest, neither does the Law require his presence or attendance upon his own private affairs, nor allow an occasion to interrupt or disturb him in his sleep. Therefore it hath been adjudged that a man cannot distrain in the night for a rent Service (because the distress being in it self a demand of the rent, which the Tenant ought to pay, whensoever it is demanded, upon the Land out of which it issues) for that the Law does not require his being upon the ground, nor his readiness to tender his rent in the night as it does in the day-time. It is true, a man may distrain for damage Feasant in the night, and the Law does allow it onely for the necessity of the case, for if the Owner of the Land should permit the Cattel to continue there till:

12 Ed. 3. tit. Distress 17. 11 H. 7. fo. 9. Acc.

10 Ed. 3. fo. 21.

till morning, perhaps by that time they may estray out of the ground, and so they cannot be distrained at all, for they must be taken damage feasant (*viz.*) doing of the trespass upon the ground. Therefore since none are bound to have an eye in the night upon Thieves and Robbers in the Country, it is both the interest and safety of our Traveller, that he take care not to be abroad at unseasonable hours, for then in some respect he is out of the protection of the Law, which makes no provision for his indempnity in case he be robbed, and the Poet further warns him of his danger:

Ut jugulent homines surgunt de nocte Latrones.

And whereas it is further provided by the Statute of *Winchester*, *cap.* 4. *That in all Cities and great Towns which are walled the Gates be kept shut from Sun-setting to Sun-rising*, I conceive that if a man be robbed in such a City or Town, though

though it be done in the night, yet the Inhabitants ſhall anſwer for the Robbery, and notwithſtanding that at the Common Law no place was puniſhable for the eſcape of any Felon in the night, yet this Statute hath changed the reaſon and ground of that Law, and *ratio Legis eſt anima Legis & mutata Legis ratione mutatur & Lex*, for if they do not keep their Gates ſhut according to the Statute whereby the Felon eſcapes, there is a default and negligence in them, which renders them liable to puniſhment if the Felon be not apprehended by them, and it was adjudged in the 3d. of *Ed.* 3d. *That where a man being ſlain within a wall'd Town in the night, and the Murtherer eſcaped, that the whole Town ſhould be amerced, Quare*, Whether the caſe of the Robbery may not be within the ſame reaſon? 3 *Ed.* 3. tit. Coron. 299.

It is neceſſary that the Robbery, for which the County is to anſwer, be done in the day-time and out of the night, and if a man be robbed after Sun-ſet and before it be dark, yet

yet the Hundred is chargeable, as it was resolved in an Action brought against the Inhabitants of *Eveinger*, by one *Ashpoole*, who was robbed in *January* after Sun-set while it was day-light, and the Court gave Judgment for the Plaintiff, for that it was a time convenient for men to travel and be about their business.

Co li. 7. fo. 6.

And in another Action commenced against the Hundred of *Dunmore* in *Essex*, it was resolved that for a Robbery done in the morning *ante lucem* (*viz.* before it is light) the Hundred is not chargeable, for that the Robbery is done in the night.

Co. ub. supra.

In an Action upon the Statute of *Winchester*, brought against the Hundred of *Morely*, the Jury found that the Robbery was done *post lucem ejusdem diei & ante ortum Solis*, that is, after day-break and before Sun-rising, and it was adjudged the Plaintiff should recover against the Hundred. So also a Robbery committed *post occasum Solis & per diurnam lucem*, that is, after Sun-set and

Cro. Jac. 106.

and by day-light, was held good to charge the Country.

The Hundred of *Warrington*, being ſued upon the aforeſaid Statute for a Robbery committed, it was held by *Anderſon* and all the Juſtices, that if a Robbery be done in the morning before day or in the evening after the day, in any time of the night in which men uſe commonly to travel, that the Hundred is anſwerable for it. But if it be done at twelve or one of the Clock in the night, at which time every one is intended to be in bed, the Hundred is not bound to anſwer for the Robbery, *Quare* of this Caſe, for it contradicts the forementioned Authorities, and the reaſons of them. *Cro. Eli.* 270.

Though in moſt caſes travelling upon the *Sunday* be prohibited and puniſhable by Law, yet if any perſon ſo travelling be robbed, the Country is not excuſable, as it was held by three Juſtices, in the caſe of one *Wayte*, againſt the Hundred of *Stoke*, *That notwithſtanding a Robbery be committed upon the Sunday in*

the time of Divine Service, yet this is no excuse for the Country, for it is their charge and duty to provide that Robberies be not done, and if they be that they suppress them; and the Statute of Winchester *is made for the maintenance of the peace of the Realm and the advancement of Justice, and therefore ought to be liberally and favourably construed, and the pursuing of Felons, who attempt to violate the Sabbath, is no offence but a good work of Charity and Justice, for if it were otherwise it would prove the occasion and encouragement of committing Robberies frequently upon that day. And sometimes divers persons upon necessity are forced to travel upon the Sunday, as Physicians, Chirurgeons and Midwives, and it was judged unreasonable they should be protected in their Journies.*

Cro. Jac. 469.

But this Law is in some sort now altered by a Statute made in the 29th. year of the Reign of his present Majesty, whereby it is provided, *That if any person or persons whatsoever which shall travel upon the Lord's day shall be then robbed, That*

no

no Hundred nor the Inhabitants thereof shall be charged with it, or be answerable for any Robbery so committed; but the person or persons so robbed shall be barred from bringing any Action for the said Robbery, any Law to the contrary notwithstanding; Nevertheless the Inhabitants of the Counties and Hundreds (after notice of any such Robberies to them or some of them given, or after Huy and Cry for the same to be brought) shall make or cause to be made fresh suit and pursuit after the Offenders with Horsemen and Footmen, according to the Statute made in the 27th. year of Queen Elizabeth, *upon pain of forfeiting to the King's Majesty his Heirs and Successors, as much money as might have been recovered against the Hundred by the party robbed if this Law had not been made.*

In what place a Robbery must be committed to charge the Hundred.

THE Statute of *Winchester* speaks in general as well of the place as of the time, yet resolved *Co.* li. 7. in *Sendill's* Case, *That if a man be robbed in his House either by day or night, the Hundred in which the House is shall not be charged to answer for it, and that for three reasons* 1. *For that every man's House is his Castle, which he is bound to defend at his peril.* 2. *It is not lawfull for another to enter into any man's House for the tuition and safeguard of it.* 3. *That such a Robbery for which the Country shall answer within this Act ought to be done openly, so that the Country may take notice of it themselves.*

Though the Law be so in case of a Robbery committed in a House, yet it seems (that since this Statute is to be expounded by the rules of the Common Law) that if a Rob-

a Robbery be done in any known place beſides, the Country is liable. It is held in my Lord *Dier*'s Reports, *That if a man be ſlain in the day-time that the Townſhip ſhould be amerced for the eſcape, though the Murther was done in any Fields or Lane belonging to the Town*; hence I do infer, that if a perſon be robbed in any open or known place out of the High-way, that ſuch Robbery is within the Statute: I conceive this Caſe may ſerve as a rule to expound this Statute by in reference to the place where, as well as that Caſe of the 3d. of *Ed.* the 3d. did in point of time, when the Robbery ſhould be committed to charge the Country; for there a Murther was done *veſpere*, in the evening after Sun-ſet, and the place was amerced for the eſcape, and according to the reaſon of this Caſe it was adjudged in the ſeventh Report in *Aſhpool*'s Caſe, *That a Robbery done after Sun-ſet and before it was dark was ſufficient to charge the Hundred*; So likewiſe becauſe an eſcape in the night is in no caſe puniſh- *Dier* 210. *Stam.* 34.

puniſhable at Common Law, this Statute hath been expounded by the ſame rule that the Country ſhould not anſwer for any Robbery done in the night.

But there is one Caſe which ſeems to confine all Robberies (which are within the meaning of this Act) to the Common High-way. The Caſe was this, *There was a way which was dangerous for Travellers to paſs through, and very chargeable to be kept in repair, and upon an* ad quod damnum, *it was found accordingly; thereupon the old way was ſtopped up and a new one made through the Fields adjoyning, which was more ſafe and commodious for Paſſengers, and to an Information brought for ſtopping the way this whole matter was pleaded, and Judgment for the King,* 1. *For that the Owner of the Land through which the new way was made might ſtop it at his pleaſure.* 2. *Becauſe if any Robbery ſhould happen to be committed upon any perſon travelling in this new way, the Country was not liable to make ſatisfaction for it, for that they were not bound to keep Watch*

and

and Ward there. To this I anſwer, That it is a charge and a duty incumbent upon the Inhabitants of every Country to ſee that no Robberies be committed in any place within their reſpective Precincts, and to uſe all means to prevent them, and if they be to ſuppreſs them, and it does not follow that the Country is not anſwerable for any Robbery unleſs the Inhabitants be bound to Watch and Ward at the ſame time and place where and when the Robbery is committed, for then no Robbery done after *Michaelmas* and before the Feaſt of the *Aſcention* ſhould bind the Country, nor between the Feaſt of the *Aſcention* and *Michaelmas*, unleſs it be done after Sun-ſetting and before Sun-riſing; for by the Statute, no City, Town or Village is obliged to keep Watch but from Sun-ſetting to Sun-riſing, and that at no other time of the year but from the Feaſt of *Aſcention* till *Michaelmas*, neither is it to be thought in reaſon that the number which the Statute does appoint to Watch (*viz.* ſix at every

Gate

Gate of a City, twelve to a Tower, and ſix more or leſs according to the proportion of the Inhabitants to every Village) ſhould guard every particular paſſage upon the Road: And Watches are not kept in the night to guard and ſecure Travellers from Robbers in the night, for the Country ſhall not make any ſatisfaction for a Robbery done at that time; but their buſineſs principally is to examine all Strangers (which travel in the night) whence they come, whither they go, and what they be, and of their buſineſs, *&c.* and if they find cauſe of ſuſpicion they may arreſt and detain them till the morning, and if then no ſuſpicion be found they may let them go, and if otherwiſe they ought to deliver them to the Sheriff, or carry them before a Juſtice of the Peace, *&c.* And admitting that the Country is bound to keep Watch and Ward in the day-time, according to the 5th. of *Ed.* the 4th. where it was held, *That the Inhabitants are not required by Law to Watch and Ward upon the Sun-*

Sunday, in the time of Divine Service, yet it was resolved in an Action brought by —— against the Hundred of *Stokes*, *That notwithstanding the Robbery was done upon the Sunday, and in the time of Divine Service that the Plaintiff should recover against the Hundred*, and I conceive that it may be a general rule, that in what place soever a Felony be committed, for which the Town or Hundred were answerable at Common Law for the escape of any such Felon, that for a Robbery done under the same circumstances the Country shall answer. I have onely offered these reasons and submit unto the Judgment of the Reader.

How

How one or more againſt whom Execution is had may have Contribution from the reſt of the Inhabitants of the ſame Hundred.

BY the Statute of the 13th. of *Ed.* the 1ſt. and 28 of *Ed.* the 3d. the whole Hundred where the Robbery was committed with the Liberties within the Precincts thereof, being liable to anſwer for the Robbery and the damages ſuſtained thereby, when the party robbed had obtained Judgment againſt the Hundred, it was the uſual practice to take Execution for the intire damage againſt one or very few of the Inhabitants, who being ſo charged had no remedy to force a contribution from the reſidue of the Hundred, which often proved to be the abſolute impoveriſhment and ruine of ſuch Inhabitants and their Families. To remedy this great inconveniency, and to lay the burthen

then equally upon the Inhabitants of the whole Hundred, who were equally chargeable by a Statute made *Anno* 27 *El.* cap. 13. it is enacted, *That after Execution of damages ſo had by the party againſt one or few of the Inhabitants, it may be lawfull upon complaint made by the perſon or perſons ſo charged, for two Juſtices of the Peace (whereof one to be of the Quorum) of the ſame County inhabiting within the ſaid Hundred or near unto the ſame where any ſuch Execution ſhall be had, to aſſeſs and tax ratably and proportionably according to their diſcretions all and every the Towns, Pariſhes, Villages and Hamlets, as well of the ſaid Hundred where any ſuch Robbery ſhall be committed as of the Liberties within the ſaid Hundred to and towards an equal contribution to be had and made for the relief of the ſaid Inhabitant or Inhabitants againſt whom the party or parties robbed had his or their Execution. And after ſuch taxation made, the Cowſtables, Conſtable, Headboroughs, or Headborough of every ſuch Town, Pariſh, Village and Hamlet,*

ſhall by virtue of this Act have full power and authority within their ſeveral limits ratably and proportionably to tax and aſſeſs according to their abilities, every Inhabitant and Dweller in every ſuch Town, Pariſh, Village and Hamlet, for and towards the payment of ſuch taxation and aſſeſſment as ſhall be ſo made upon every ſuch Town, Pariſh, Village and Hamlet, as aforeſaid by the ſaid Juſtices; And if any Inhabitant of any ſuch Town, Pariſh, Village or Hamlet ſhall obſtinately refuſe and deny to pay the ſaid taxation and aſſeſſment ſo by the ſaid Conſtables, Conſtable, Headboroughs or Headborough taxed and aſſeſſed; Then it ſhall and may be lawfull to and for the ſaid Conſtables Headboroughs, and every of them within their ſeveral limits and juriſdictions, to diſtrain all and every perſon and perſons ſo refuſing or denying by his and their goods and chattels, and the ſame diſtreſs to ſell and the money thereof coming to retain to the uſe aforeſaid; And if the goods and chattels ſo diſtrained and ſold ſhall be of more value than the ſaid taxation

ſhall

ſhall come to, then the reſidue of the ſaid money over and above the ſaid taxations ſhall be delivered unto the perſon or perſons ſo diſtrained. All and every ſuch Conſtables and Headboroughs after that they have within their ſeveral limits and juriſdictions levied and collected their ſaid rates and ſums of money ſo taxed, ſhall within ten days after ſuch Collection pay and deliver the ſame unto the ſaid Juſtices of Peace or one of them to the uſe and behoof of the ſaid Inhabitant or Inhabitants for whom ſuch rate, taxation or aſſeſſment ſhall be had or made as aforeſaid, which money ſo payed ſhall by the Juſtices or Juſtice ſo receiving the ſame be delivered over (upon requeſt made) unto the ſaid Inhabitant or Inhabitants to whoſe uſe the ſame ſhall be called.

It was held in one *Dean's* Caſe 10 *Car.* in the Common Pleas, *That a perſon coming to inhabit in the Hundred after the Robbery, and Judgment given, is not liable to the Execution at the Suit of the party robbed, but a perſon coming after to inhabit is aſſeſſable to the Contribution, becauſe*

the Country is chargeable at the time of the assessment and not the persons which were there at the time of the Robbery committed. Vid. *Dalton's* Justic. 153.

There was another inconvenience (before the making of the aforesaid Statute of 27 *El.*) which occasioned great remissness and negligence in the pursuing and apprehending of Robbers, for that by the Statutes of 13 *Ed.* 1. and 28 *Ed.* 3. the Hundred where the Robbery was done stood charged with the penalties therein contained, notwithstanding their disability to perform what the Law required from them, and likewise notwithstanding they used their uttermost endeavours in making of fresh suit and following the Malefactors in order to bring them to justice; the Inhabitants of other Hundreds and Counties (besides those where the Robbery was done) knowing that though the Felons escaped that they were not bound to render satisfaction to the party robbed, were careless in discharging their duty in prosecuting the Huy and Cry

when

when it was brought to them; And to the end that the Inhabitants and Reſiants of other places might be quickened and ſpurred on to uſe all poſſible diligence to ſuppreſs Robbers, the aforeſaid Statute of 27 *El.* makes them who ſhall firſt make default in the purſuit to participate of the charge, which before was incumbent onely upon that place where the party was robbed, It is thereby enacted, *That the Inhabitants of every or any ſuch Hundred (with the Liberties within the precinct thereof) wherein negligence, fault, or defect of purſuit after Huy and Cry made, ſhall happen to be, ſhall anſwer and ſatisfie the one moiety or half of all and every ſum or ſums of money and damages as ſhall by force and virtue of the ſaid Statutes of* 13 Ed. 1. *and* 28 Ed. 3. *or either of them be recovered or had againſt, or of the ſame Hundred with the Franchiſes therein in which any Robbery or Felony ſhall at any time hereafter be committed or done, And the ſame moiety ſhall at any time hereafter be recovered by Action of Debt, Bill,*

Plaint or Information in any of the King's Courts of Record at Westminster, *by and in the name of the Clerk of the Peace for the time being of every such County within this Realm where any such Robbery and Recovery by the party or parties robbed shall be without naming the Christian-name or Sir-name of the said Clerk of the Peace, which moiety so recovered shall be to the onely use and behoof of the Inhabitants of the said Hundred where any such Robbery shall be committed.*

And leſt the Action, &c. ſhould any way miſcarry, either by the death or removal of the Clerk of the Peace it is further provided by the ſaid Act, *That if any Clerk of the Peace of or in any County within this Realm ſhall at any time hereafter commence or prefer any ſuch Suit, Action or Information, and ſhall after the ſame ſo ſued, commenced or preferred happen to die or to be removed out of his Office before Recovery and Execution had, yet no ſuch Action, Bill, Plaint, Suit or Information ſued, commenced or preferred, ſhall by ſuch diſplacing or death, be abated,*

abated, diſcontinued or ended, But it ſhall and may be lawfull to and for the Clerk of the Peace next ſucceeding in the ſaid County to proſecute, purſue and follow all and every ſuch Action, Bill, Plaint, Suit or Information for the cauſes aforeſaid ſo hanging and depending in ſuch manner and form to all intents and purpoſes as that Clerk of the Peace might have done which firſt commenced or preferred the ſaid Suit, Bill, Plaint or Information.

If the moiety of the penalty be recovered in an Action brought upon the foreſaid branch of this Statute againſt any Hundred for want of freſh ſuit and Execution had thereupon againſt one or few of the Inhabitants; There ſhall be the ſame courſe and method obſerved as is provided by this Statute for relief of part of the Inhabitants (of that place where the Robbery was done) whoſe goods and chattels are taken in Execution for the ſatisfaction of the perſon that is robbed, And the like taxation, aſſeſſment, levying by diſtreſs and payment ſhall be had and done within every Hundred where default and negligence of

purſuit and freſh ſuit ſhall be, for and to the benefit of all and every Inhabitant or Inhabitants of the ſame Hundred where ſuch default ſhall be, that ſhall at any time hereafter by virtue of this Act have any damages or money levyed of them for the payment of the one moiety of the money recovered againſt the ſaid Hundred where the Robbery is committed.

There is a private Act of Parliament made in the 39 *El.* cap. 25. for the relief of the Inhabitants of *Begnerſh* alias *Benherſt* in the County of *Berkſhire*, who in reſpect of the ſmalneſs and poverty of the place were not able to make ſatisfaction for the great and frequent Robberies committed within that Hundred, which hath two great Roads in it, the one leading from *London* to *Henly* upon *Thames*, the other from *London* to *Reading*, each of them being at leaſt three miles in length thorough the woody ground called the *Thicket*; And in reſpect of the thinneſs of the Inhabitants, and few or none of their Villages being ſituated upon either

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of these Roads; And having seldom any occasion for themselves or their Servants to be much conversant in or near the Roads, most part of the Hundred joyning to the High-way being woody ground, and so not fit for Tillage or Pasture, or any other use which may require the frequent being of the Resiants upon it. And so for these reasons they could not conveniently of themselves take notice of the Robberies committed upon these Roads. And therefore to ease them of the inconveniencies and of the great charges that they were equally like to undergo, to their utter impoverishment and depopulation, it is provided by this Act, *That the Inhabitants of the said Hundred of* Benherst *shall and may to their own proper use in the name of the Clerk of the Peace of the said County recover and levey all such sums of money, costs and damages as shall hereafter be recovered or levied of or against them by force of any of the Statutes which concern Robberies, against the Inhabitants and Resiants of every or any such*

Hundred with the Franchises within the precincts thereof, wherein negligence, fault or defect of such pursuit or fresh suit (as by the said Statute of 27 El. is appointed to be made) shall happen to be after notice given or Hue and Cry brought to the said Inhabitants or Resiants or any of them of or upon any Robbery which shall be committed within the Hundred of Benherst: *And this Act shall give full power and authority in all respects to the Inhabitants of the said Hundred of* Benherst *(in the name of the Clerk of the Peace of the said County) for the recovery and levying of all the said money, costs and damages aforesaid, as the Statute of 27 El. gave or intends to give for the recovery of a moiety or one half thereof. Provided always that no such remedy or recovery shall be had by this Statute for all or the whole sum or sums of money and damages aforesaid, but only in these two cases (viz.) The one where no such notice or intelligence (as by the said Statute of the 27 El. was appointed to be given of every or any Robbery) shall be given to the Inhabitants of the said*

Hundred of Benherſt; *The other where the Inhabitants of the ſame Hundred (after ſuch notice of any Robbery to them or ſome of them given, or after Hue and Cry for the ſame to them brought) ſhall make or cauſe to be made freſh ſuit and purſuit after the Offenders with Horſemen and Footmen, according to the ſaid Statute of* 27 El. *and where nevertheleſs the Offenders or any one of them ſhall not be apprehended within forty days after the Robbery committed.*

One of the chief difficulties that the ſaid Hundred of *Benherſt* laboured under was in regard the Inhabitants thereof for the reaſons already ſhewed could not of themſelves take notice of the Robbery that they might make freſh ſuit after the Offenders, and nothing could excuſe them of the penalty unleſs they or ſome other place anſwer the Bodies of all or any of the Robbers, and the party robbed was not obliged to give notice within the Hundred wherein he was robbed, for notice in another Hundred or County is ſufficient, provided it be near

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the place where the Robbery was done, as it appears by the preamble of this Statute of 39 *El.* *That upon a notice given at* Maidenhead *out of the Hundred of* Benherſt, *and three miles diſtant from thoſe thieviſh places in the Thicket where the Robbery was committed, recovery and Execution were had againſt the ſaid Hundred for above two Hundred and fifty pounds*; and you may reade in the Chapter of Notice before, how notice given at *South-Mims* in *Middleſex* of a Robbery done in *Hertfordſhire* was adjudged good. And notwithſtanding this Act, if a Traveller be robbed within the Hundred of *Benherſt*, and gives notice of the Robbery at another place out of the Hundred as aforeſaid, yet the ſaid Hundred ſhall anſwer for the Robbery as formerly, for the meaning of the Statute is not, that if there be notice at all given to the Inhabitants of the ſaid Hundred, that for that reaſon they ſhall be excuſed of the penalty, but that if there be no ſuch notice given to them within the Hundred, and the party

party robbed recover againſt them, they ſhall recover over againſt the place where default of freſh ſuit ſhall happen the whole and intire penalty recovered againſt them. And in caſe there be ſuch notice and intelligence given to the Inhabitants or Reſiants of this Hundred as the Statute does require, and the Offenders eſcape, yet they ſhall recover the moiety according to the Statute of the 27 *El.* againſt the Hundred where the freſh ſuit ceaſed, *&c.*

There is another private Act made for the relief of the Inhabitants of the Town of *Tewxbury*, in the County of *Glocester*, againſt the Commonalty of the *Foreſt Dean*, and of the Hundreds of *Bledſtow* and *Weſtbury*, in the ſaid County, for that Sundry Robberies were uſually committed in a riotous manner by a great multitude of people of the ſaid Commonalty upon the ſaid Inhabitants of the Town of *Tewxbury* in their paſſage from thence upon the River of *Severn* to the City of *Briſtol* and in their return 8 *H.* 6. *c.* 27.

return back again, therefore to remedy these great enormities, *The Sheriff of the said County or the Bayliffs of the Town of* Glocester *for the time being or one of them, upon pain of forfeiture of* 20li. *to be levied of their lands, goods and chattels to the King's use, shall make proclamation at the said Town of* Glocester *within four days next after notification made to them or any of them by the persons so endamaged, or by any other in their names of such injuries and trespasses done, and that the said Trespassers and Offenders shall restore in the same Town of* Glocester *within fifteen days after the said proclamation to the said persons so endamaged their corn and merchandise, goods and chattels so taken or the very value of the same, with reasonable amends for the damages sustained by such taking; After which proclamation if the said Trespassers do not restore the said corn and merchandise,* &c. *or the value of them to the party so grieved in form aforesaid, with reasonable amends for the damages, or that the said Trespassers be not brought to the King's*

Prison

Prison to the Castle of Gloceſter for the ſaid treſpaſſes, by the Officers of the ſaid Foreſt and Hundreds, or by the Commonalties of the ſame, that then the conſideration of the Statute of Wincheſter put for the Robbery of any perſon which giveth an Action for him that is robbed againſt the Hundred within which the ſame Robbery is done, after the form of the ſame Statute, the ſaid Commonalties ſhall be charged of the ſaid corn and merchandiſe, goods and chattels ſo taken or of the very value of the ſame to the party ſo grieved, to ſatisfie them of the damages for the ſame taking. And that the ſaid parties ſo endamaged and grieved may have their general Actions of Debt againſt the ſaid Commonalties of the ſaid Foreſt and Hundreds of the ſum of money, to which the value of the corn, merchandiſes, goods and chattels ſo taken do extend.

And although the ſaid Commonalties be no Commonalties Corporate, yet they ſhall have proceſs in ſuch Actions of Debt by Summons, Attachments and Diſtreſs, as if he were to have

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an Action of Debt at the Common Law; So that if the said Commonalties make default of the second distress in such Actions, that then the party which shall sue shall have Judgment to recover his Debt against the said Commonalties, after the supposal of their goods in the form aforesaid, with his reasonable damages and expences; And whatsoever issue triable by Inquest in the said Forest and Hundreds, shall happen to be taken in such Actions, it shall be tried by Inquest of the Body of the said County out of the same Forest and Hundreds; And that the goods and chattels of every singular person of the said Commonalties for the time being shall be had, taken and holden in Law convict, as the common goods and chattels of the said Commonalties touching the return, serving and execution of Writs, Processes and Judgments in and of the said Actions. And that every singular person of the said Forest and Commonalties have power by authority of the said Parliament to attach and arrest the said Trespassers by their Bodies, as well within the said Forest as without,

out, and so arrested to commit to the said Prison, and that the Keeper of the same Prison upon pein of 40li. to be levied of his goods and chattels, lands and tenements to the King's use, shall safely keep every such person so committed to his custody till that the King or his Council hath ordained and provided their deliverance upon record, and if the goods or chattels of any singular person or persons of the said Forest and Hundreds, being not guilty of the said Robberies happen to be put in Execution by reason of any such Action and Judgment, that then the said person and persons so being not guilty may have their special Action of Debt or Trespass upon the case, of the goods and chattels so upon Execution against the said Trespassers, to recover their damages as well for the value of the same goods and chattels so put in Execution, as for the damages and costs which happen to be had by reason of such Actions of Debt, and they shall have such Processes in the said Actions of Debt or Trespass as is to be had in the said Actions of Debt for the said persons so endamaged or spoiled.

Of

Of Huy and Cry.

FElony is so odious in the eye of Law that it punisheth the Authour thereof with death, and will in no manner connive at the impunity such heinous Malefactors, and lest such violators of the peace should escape her Justice, she commands and requires the aid and assistance of all persons to apprehend and secure the Offender, and in case he be not taken in the Fact, to give by degrees a general and universal Alarm throughout the whole Kingdom for all people to take notice of the Offender; so that they may pursue and follow him in order to prevent his flight. And this grand Alarm is called in Law *A Huy and Cry*.

Huer in French (from whence the Law-Latin word *Hutesium* is derived) signifies to hoot or shout, in English to Cry; And the two words Huy and Cry have but one signification,

tion, and as my Lord *Cook* terms it, the one is but an expreſſion of the other, and ſometimes one is uſed without the other, as in *Weſtm.* 1. *cap.* 9. where all men are commanded to be ready at the Cry of the Country. And the Law does not require that this Huy and Cry be made onely with a vocal ſound, but it may well anſwer the ends of the Law if it be performed by an Inſtrument, as a Horn, a Trumpet, &c. as the *Mirour* and *Briton* have it, *avec Huy & Cry de Corne & de Bouche*, (*viz.*) with Huy and Cry of Horn and Mouth. 2 *Inſt.* 173.

This way of purſuing Felons by Huy and Cry is part of the ancient Common Law of this Realm, as it appears by thoſe Authours who write of the Laws of *England* in uſe long before the Conqueſt, yet ſome have thought that Huy and Cry had its original from the foreſaid Statute of *Weſtm.* 1. but that Statute it ſelf proves the contrary, for it finds fault that good ſuit, that is freſh ſuit was not duly made.

Who

Who may raiſe the Huy and Cry, and for what Cauſe.

THere are two ſorts of Huy and Cry, The one by Common Law, the other by Statute. The Huy and Cry by Common Law may be levied by any perſon who finds juſt cauſe to doe it; neither when a Felony is committed is it neceſſary for him to reſort to the Conſtable of the Town where it was done, and acquaint him with the cauſe, deſcribing the perſon, &c. and require him to begin it, but that either the party grieved or one that is eye Witneſs to the fact may raiſe the Huy and Cry themſelves, and the people of the Town are bound to follow it when it is once ſo raiſed, and if the party does not ſo he incurs the penalty of the Law.

3 *Inſt.* 117. 8 *Ed.* 2. *Coron.* 395. For if a man be preſent when one is either robbed or murthered, and does not endeavour to arreſt the Offender, he is puniſhable by Fine and

and imprisonment; And so was the Law of old, *Siquis aliquem spoliatum viderit, sontem per acclamationem insequatur*, and it is likewise to be found amongst the Laws of *Carnutus* that if a man met a Robber in the way, and would suffer him to pass without raising the Huy and Cry upon him, he was to pay the uttermost penny the Felons life should be valued at. 3 *Inst.* 116.

It is not necessary that the Huy and Cry be made by the Constable, the party grieved, or him that saw the fact committed, nor that it be raised in the Town where the Felony was done, but that in all cases where every man has authority by a warrant in Law to arrest an Offender, as a man attainted or indicted of Treason or Felony may be apprehended by any person whatsoever, if an attempt be made to arrest any such person and he disobeys it and flies, the Huy and Cry may be levied upon him where ever he be.

If a Felony be done, and *A.* suspects *John* a Styles to be the person

ſon that committed it, the ſuſpicion being perſonal none can attach him beſides *A.* in this caſe if *A.* endeavours to apprehend him and he makes his eſcape, I conceive *A.* may raiſe the Cry after him becauſe he had power to arreſt him.

2 *H.* 7. fo. 15.

Note the Spectators are not to be Judges of the degree or quality of the offence; for if one kills another by chance-medly or *ſe defendendo* and flies for it, the Town ſhall be amerced for the eſcape, and by the ſame reaſon they may raiſe the Huy and Cry upon him, becauſe the Inhabitants being bound to apprehend him, the Law allows them the means to effect it, and one of them is by Huy and Cry.

Every Juſtice of the Peace by virtue of his Commiſſion may cauſe Huy and Cry, freſh ſuit and ſearch to be made upon any Murther, Robbery or Theft committed.

Dal. J. P. cap. 28.

The Statute of the 3d. of *Ed.* 1. entitled *Officium Coronatoris*, does ordain, *That upon all Homicides, Burglaries, men ſlain or put in great danger, the Huy and Cry ſhall be levied*;

vied; though generally a Felony ought to be the ground and foundation of the Huy and Cry, yet in ſome caſes it may be done though there be no Felony, as if a man be dangerouſly wounded or aſſaulted and attempted to be robbed, in both theſe caſes, though in the one there was but a probability of a Felony, and in the other onely a will (diſcovered by the attempt) to commit it; So it ſeems if a rape be attempted upon a woman, ſhe may juſtifie the levying of the Huy and Cry though ſhe was not raviſhed indeed. 3 *Inſt. ib. ſupra.*

The Huy and Cry is appointed to be raiſed in ſome particular caſes by Acts of Parliament, as the Statute of *Wincheſter* doth authoriſe the Watch to arreſt night walkers, and if they diſobey the arreſt and fly, the Watchmen may make Huy and Cry, and ſuch perſon ſhall be purſued from Town to Town and from Country to Country in the ſame manner with the Felon. *Stat.* Winton *cap.* 3. 4 *H.* 7. fo. 2. 18.

It is likewiſe ordained by a Statute made *An.* 21 *Ed.* 1. *That if a Foreſter,*

Foreſter, Parker or Warrener, ſhall find any Malefactors wandring within their reſpective precincts, with an intent to commit any treſpaſs or damage there, the ſaid Officers may levy the Huy and Cry upon them; and if the Offenders thereupon will not render themſelves to the ſaid Officers, but fly or make reſiſtance, if any of them be ſlain by the forementioned Officers, or by any other coming to their aſſiſtance, within their bounds or limits, and for the killing of ſuch Offenders no perſon ſhall be anſwerable to the Law.

3 Inſt. 117.

As the Law gives authority to every man to raiſe the Country when there is a juſt and legal cauſe for it; ſo it does inflict a puniſhment upon ſuch as ſhall alarm their Country without ſufficient grounds to doe it; for if any man ſhall upon a feigned cauſe raiſe a Huy and Cry upon another, he may be puniſhed by Fine and impriſonment, and likewiſe may be bound to his good behaviour as a diſturber of the publick peace.

3 *Inſt.* 118. 29 *Ed.* 3. *Fitz Treſp.* 252.

And to the end that Malefactors ſhould find no ſhelter or protection under

under the wings of any great Men or chief Officers of any Country, and to engage them as well as other Inhabitants to promote the common Cry, it is ordained by the Statute of *Westm.* 1. *Cap.* 9. *That if default be found in the Lord of a Franchise the King shall seise the Franchise into his own hands, and if default be found in his Bailiff he shall suffer one years imprisonment and afterwards make Fine to the King, and if he hath not wherewith, he shall be imprisoned for two years; And if the Sheriff, Coroner, or any Bailiff within such Franchise or without, for reward, or intreaty, or any affinity conceal, consent or procure to conceal the Felonies done within their Liberties, or otherwise will not attach or arrest such Felons (whereas they may) or otherwise will not doe their Offices for favour that they bear to such Offenders, and be thereof convicted, they shall be imprisoned for one year, and if they have not whereof to make Fine, they shall have three years imprisonment.*

My Lord *Cook* in his Comment upon this Statute says that the King 2 *Inst.* 173

for ſuch default ſhall retain the Franchiſe to himſelf for ever as forfeited; And *Anno* 30 *H.* 3. before the making of this Statute, *W. de Haverhull*, the Kings Treaſurer, was commanded to ſeiſe the City of *London* into the King's hand, for that the Citizens thereof did not levy Huy and Cry for the death of Mr. *Guido de Arterio* and others ſlain there, as the Laws and Cuſtoms of the Realm did require.

3 *Inſt.* 118.

How and in what manner the freſh ſuit and purſuit is to be made upon a Huy and Cry levied.

THE Statutes of the 13 of *Ed.* 1. *Cap.* 2. 28 *Ed.* 3. *Cap.* 11. do command in general that Huy and Cry be made after Felons from Town to Town and from Country to Country; But it ſeems that at Common Law the method of purſuing

ſuing Felons was, That the party robbed or otherwiſe grieved, or ſome perſon for him (though that be not neceſſary as I have ſhewed before) ſhould repair to the Conſtable of the Town, and give him notice of the Felony, &c. and require him to raiſe the Huy and Cry, and the Conſtable ought to raiſe the power of the Town, and if the Offender be not found there to carry on the Huy and Cry to the next Conſtable, who was to doe the like in his Town, and ſo from Conſtable to Conſtable untill the Offender be taken, and this is to be done as well in the night as by day. *Cook 3 Inſt.* 116. 2 *Ed.* 4. 8, 9.

It ſeems no Town is bound to purſue any further than to the next Conſtable, for ſuch a purſuit is a good excuſe for them if the Town be endicted at the King's Suit for the eſcape of a Felon. And every Town in this reſpect is a diſtinct Body, and ought to aid and aſſiſt their Conſtable (when he requires them) in the execution of his Office, as the whole County is bound

Co. li. 7. fo. 7. Dier 370.

to obey the Sheriff's command when he hath occasion to make use of the *Posse Comitatus*; And if the Inhabitants of any Town were obliged to prosecute a Felon further than to the next Constable, then by the same reason they might be required to go on from one end of the Kingdom to the other, which is both inconvenient and unreasonable.

Mirour cap. 1.

And this seems to be the Law before the Conquest, for the *Mirour of Justice*, treating of the Ordinances of the ancient Kings, saith, it was Ordained, *That every one of the age of fourteen years and upwards should follow criminal Offenders from Village to Village at the Huy and Cry*; it is said elsewhere that *Pervetusta*

3 Inst. 172. *Anglorum Lege sancitum est ut siquis damnum ex Furto passus, aut qui ipsum spoliatum viderit sontem per acclamationem insequatur, Constabulario ejus Villa cujus opem implorat, auxilia ciere, furemque perquirere debet, quod si furem illic non deprenderit in proximam transmigrare, & Constabulariam ad ferendas suppetias iterum*

iterum invocare, "It is eſtabliſhed "by the ancient Law of *England*, "that if any perſon be robbed, ei- "ther he himſelf or one that ſees "the Robbery done, may follow "the Offender with a Huy and Cry, "and the Conſtable of that Village "whoſe help he requires, ought "to call in aid and make enquiry "after the Felon, and if he cannot "find him there he ought to repair "to the next Village and require "the Conſtable of that place to "bring in further aid to purſue the "Felon.

If a Huy and Cry be levied, the Officer of the Town where the Felony, *&c.* is done, as alſo the Officers of other Towns whither the Huy and Cry is brought ought to give notice to all the Towns round about them reſpectively, and not to one next Town onely, to the end that the Cry may ſpread it ſelf far and wide into all Countries; So that it may be in a manner impoſſible for the Felon to eſcape, and in ſuch caſes it is requiſite to give notice in writing *Dal. J. P. cap. 28.*

(to the purſuers) of the things ſtoln, &c. and of the colours and marks thereof, and likewiſe to give a deſcription of the perſon of the Felon, his Horſe and Apparel, &c. and (if it can be known) to ſhew which way he is gone.

St. 3 Ed. 1. de Offic. Cor. Bracton li. 3. to. 121.

After notice given, the purſuit from place to place muſt be made immediately, with all the haſte and expedition that may be, and that likewiſe carefully and induſtriouſly, and the purſuers if poſſible are to find out the Felon's footſteps, and to tract him all the way he went, and to uſe all other devices and means which may ſeem moſt conducing and effectual for the apprehending of the Felon, ſince our Law of *England* directs the purſuers to tract the Felon, I cannot paſs over in ſilence what the learned Sir *John Davice* mentions in his Preface to his *Reports*, *That amongſt the manifold abſurdities of the* Brehon's *Laws, formerly in uſe amongſt the Iriſh, they had one cuſtom that deſerves imitation, which was, That if any cattel were ſtoln and the Owner followed the tract* (where-

(wherein, saith the Authour, the Irish are incredible cunning, insomuch as they can find the same by the bruising of a grass in the Summer-time) *if the person into whose land the trait is brought cannot make it off into some other land, he is to answer the stealth to the Owner; and this Law is ratified there as both usefull and necessary for that Kingdom, though the rest of the* Brehon's *Laws be abolished.*

Sir *Nicholas Hide* delivered in his Charge at *Cambridge* Assises, *Anno* 1629. *That a Huy and Cry must be made and pursued with Horsemen and Footmen, and that not onely a private search must be made in every Town, but that they must raise the Country as they go, and all still to follow the Huy and Cry as against a common Enemy.* Dal. J. P. cap. 28.

Also if a Huy and Cry be brought into a Town the Officers thereof ought forthwith to search all suspected Houses and places within their limits; And any person who follows the Huy and Cry (whether he be an Officer or no) may arrest all

ſuch perſons as in the ſearch or purſuit ſhall be found ſuſpicious, and thereupon he that is ſo ſuſpected ought to be carried before ſome Juſtice of the Peace of the Country where he is taken to be examined where he was at the time of the Felony committed.

It is provided by the Statute of the 27 *El. That no Huy and Cry made by the Country or Inhabitants of any Hundred ſhall be allowed for a lawfull Huy and Cry or purſuit unleſs the ſame be done both with Horſemen and Footmen*, *Quere*, Whether this Statute extends to a purſuit at Common Law or at the ſuit of the King, or onely to a purſuit to be made at the ſuit of the party robbed, who is to recover againſt the Hundred upon the Statute of *Wincheſter*.

27 *Eliz.* cap. 13.

Who

Who are bound to purſue upon the Huy and Cry levied.

WHen the Huy and Cry is raiſed every Inhabitant (whoſe aſſiſtance the Law requires) ought to follow it, though he receives no command or notice thereof from any Officer who hath authority to demand their aid in this caſe, for if a Felony, *&c.* be committed and a Villor hears the Huy and Cry thereupon levied, he is not to expect command or notice from any perſon, but ought immediately to follow the Cry; for the Law which enjoins this duty upon him gives him a tacit command to doe it, and the Huy and Cry it ſelf (being once heard) is a ſufficient notice; And this Law is as ancient as we are able to trace it by the light of Letters; for many years before the Conqueſt it was held for Law, that if any man heard the Huy and Cry and did not purſue, he was to be *Canut Leget.*

 and, punished as a Contemner of the King's Laws.

The Statute of *Westm.* 1. being but in affirmance of the Common Law commands *all persons to be in readiness to arrest Felons when ever the Cry of the Country summons their attendance*, and by another Statute made the next year after it is commanded, *That all persons shall follow the Huy and Cry, and whoever does not and be thereof convicted shall be attached to answer before the Justices of Gaol delivery, and for such offence shall be fined and imprisoned.* Bracton *li.* 3. *fo.* 118. 3 *Ed.* 3. *Coron.* 333.

West. 1. cap. 3.

Offic. Cor. 4 *Ed.* 1.

And *Bracton*, who writ before any Statute made concerning Huy and Cry, saith, *That all Knights and others under the age of fifteen years, ought to take an Oath that they will not receive any outlawed persons, Murtherers, Robbers, or such as have committed Burglary, and if at any time they should hear the Huy and Cry raised they should immediately follow it with their whole Family*, and herewith agrees *Britton* fo. 15, 19. but

Bracton li. 3. *fo.* 118.

but *The Mirour of Justice*, who was the first Authour that writ of the Laws of *England*, relates it to be a Law established by the ancient Kings of this Realm, *That such as be but of fourteen years of age are bound to pursue Felons upon the Hue and Cry.* *Mirour cap. 1.*

Notwithstanding what is said before be general, and its literal sense comprehends all persons, yet there are some that may claim an exemption from this service or duty; As, if a man be sick and not able to travel, the Law will allow him a privilege in respect of his infirmity, as well in this as in other cases; for if a *Precipe quod Reddat* be brought against *John a-Stiles* returnable at such a day, the Tenant may be essoined *de malo lecti*, that is, he may be excused of his appearance, and thereby prevent his default, because he is sick a bed and cannot travel; So if the Sheriff arrests a man that is sick and returns *Languidus*, this is a good return, and the Sheriff shall not be amerced, for the Law constrains no man to

to expose his life to imminent danger, unless it be in the defence of the Commonweale, wherein the publick safety ought to be dearer to every man than his life.

A man may be exempted in regard of any other corporal infirmity, whereby he is visibly disabled to effect that which the Law expects to be done, for *Lex non cogit ad impossibilia.* The pursuit ought to be made by men that are endued with strength and agility of Body, so that the pursuer may be in a capacity to follow the Felon, either by running or riding, *&c.* with equal speed to that of the Malefactor, whose fear and the sense of his guilt adds vigour to his flight, and puts him upon all desperate enterprises in this extremity, and to oblige a blind or lame person, *&c.* to the performance of this Office were to no end, but should be in it self *vanus & inutilis labor*, and from the same reason I infer that one over-grown with years may be excused in respect of his age, as a person *superannuated* is freed from serving

ſerving upon Juries. As for age, I conceive there is no certain term of years limited when any perſon ſhall either begin or ceaſe to purſue upon the Huy and Cry, but in this caſe the abilities of the body muſt be the ſtanding rule, as that of the mind in committing of Felonies; for though the Law computes fourteen years to be the age of diſcretion, yet if one under that age kills another, and it can be diſcovered by any circumſtance that he had underſtanding, to diſcern betwixt good and the evil he had done, the Law will adjudge it Murther, for in this caſe *malitia ſupplet ætatem*; ſo that if a perſon of younger years be of greater ſtrength and ability of body than one of twice his years, who is weak and infirm and not able to anſwer the end of the Law, ſuch perſon may be required to purſue an Offender upon the Huy and Cry, (notwithſtanding the two aforeſaid authorities) for his capacity of performing the duty, brings him within the reaſon of the Law, which being altered alters the Law

it

it self, for *ratio Legis est anima Legis & mutata Legis ratione mutatur & Lex.*

The Statute of Westm. 1. *cap.* 9. Anno 3 E. 1.

Of Robberies.

"FOrasmuch as the peace of this "Realm hath been weakly "kept heretofore, for lack of quick
Fresh suit. "and fresh suit making after Felons "in due manner, and namely be- "cause of Franchises, where the "Felons are received: It is provi- "ded, that all generally be ready "and apparelled at the command-
Sheriffs. "ment and summons of Sheriffs, "and at the Cry of the Country,
Arrest. "to pursue and arrest Felons, when "any need is, as well within Fran-
Franchises. "chises as without; and they that "will

"will not ſo doe, and thereof be attainted, ſhall make a grievous Fine to the King. And if default be found in the Lord of the Franchiſe, the King ſhall take him to the ſame Franchiſe: and if default be in the Bailiff, he ſhall have one years impriſonment, and after ſhall make a grievous Fine, and if he have not whereof, he ſhall have impriſonment of two years: and if the Sheriff, Coroner, or other Bailiff within Franchiſe or without, for Reward or for Prayer, or for any manner of affinity, conceal, conſent or procure to conceal the Felonies done in their Bailiwicks, or otherwiſe do forbear to attach or arreſt ſuch Felons (there as they may) or otherwiſe to doe their Office for favour born to ſuch miſdoers, and be attainted thereof, they ſhall have one years impriſonment, and after make a grievous Fine; and if they have not whereof to make Fine, they ſhall have impriſonment of three years. *Weſtm. 1. cap. 9. Anno 3 Ed. 1.*

Refuſe. *Fine.* *Franchiſes.* *Bailiff.* *Impriſonment.* *Fine.* *Sheriff.* *Coroner.* *Conceal.* *Attach.* *Office.* *Favour.* *Impriſonment.* *Fine.*

"and

"and after *Anno* 23 *H.* 6. *cap.* 5. "it is enacted that this Statute shall "be put in execution.

The Statute of Winton, Anno 13 Ed. 1.

Of Robberies.

"FOrasmuch as from day to day "Robberies, Murthers and "burning of Houses be more often "used than they have been hereto- "fore, and Felons cannot be at- "tainted by the Oath of Jurors, "which had rather suffer Felonies "done to strangers to pass without "pein, than to indict the Offen- "ders, of whom a great part be "folk of the same Country, or at "the least, if the Offenders be of "another Country, the Receivers "be of places near; and they doe

"the

"the ſame, becauſe the Oath is not
"now put unto Jurors, nor upon
"the Country where ſuch Felo-
"nies were done, as to the reſti-
"tution of damages hitherto no
"pein hath been limited for their
"concealment and laches: Our
"Lord the King, for to abate the
"power of Felons, hath eſtabliſhed
"a pein in this caſe, ſo that from
"henceforth for fear of the pein
"more than for fear of any Oath,
"they ſhall not ſpare any, nor
"conceal any Felonies; and com-
"mandeth that Proclamation be
"ſolemnly made in all Counties,
"Hundreds, Markets, Fairs, and
"all other places where great Re-
"ſort of People is, ſo that none
"ſhall excuſe themſelves by igno-
"rance, that from henceforth eve-
"ry Country be ſo well kept, that
"immediately upon Felonies and
"Robberies committed, ſuch freſh
"ſuit be made from Town to
"Town, and from Country to
"Country, likewiſe when need re-
"quire, that Inqueſt be made in
"Towns by him that is Lord of

"the

"the Town, and after in the Hundred, and after in the Franchiſe, "and in the County, and ſometime "in two, three or four Counties; "in caſe where Felonies be committed in the Marches of Shires, "ſo that the Treſpaſſers may be "attainted, and if the Country do "not anſwer for ſuch manner of "miſdoers, the pein ſhall be ſuch, "that the Country, that is, the "people dwelling in the Country, "ſhall anſwer for the Robberies "done, and alſo for the damages, "ſo that the whole Hundred where "the Robbery happeneth to be "done, with the Franchiſes, being "within the precinct of the ſame "Hundred, ſhall anſwer for the "Robberies done; and if the Robbery chance to be done in the Diviſion of two Hundreds, in ſuch "caſe both Hundreds together, "with the Franchiſes ſhall anſwer "it; and after that the Felony or "Robbery is done, the Country "ſhall have no longer ſpace than "forty days, within which it ſhall "behoove them to agree for the

"Rob-

"Robbery and Treſpaſs, or elſe "that they anſwer for the Bodies "of the Offenders; and foraſmuch "as the King will not that his "people ſhall be ſuddenly put in "fear of this penalty, which ſee-"meth very hard to many, the "King granteth that they ſhall not "incur it immediately but it ſhall "be reſpited untill the *Eaſter* fol-"lowing, &c.

Clauſ. Anno 21 *Ed.* 1. in 4. Dorſo.

REX Vic' Ebor' ſ' Cum ad majorem tranquillitatem pacis noſtræ tenend' & depredatorum ac aliorum malefactorum malitiam reprimendam quoſdam articulos ea occaſione per totum Regnum noſtrum Statuerimus obſervari, inter quos ordinavimus & mandavimus per ſingulos Comitatus infra idem Regnum quod ſtatim

Proclamatio ſive Breve direct' Vic'. De quibuſdam Articulis Statuti proclamand' & publicandis, &c.

ſtatim poſt Robberias & Felonias factas fieret recens ſcita de Villa in Villam & de Patria in Patriam. Et ſimiliter Inquiſitiones fierent ſi neceſſe eſſet in Villis, Hundredis, Liberatibus, Comitatibus & aliquando in duobus, tribus vel quatuor Comitatibus in caſibus cum Felonia facta fuiſſent in Marchia Comitatuum; ita quod Malefactores deprehendi poſſent. Et ſi Patria de Corporibus hujuſmodi Malefactorum non reſponderet, homines in Patria Commorantes de Robberiis factis & damnis reſponderent, ac jam ex pluriuminſinuatione acceperimus quod poſt Statutum & Mandatum prædictum Homicidia, Robberia, Incendia & alia Trangreſſiones diverſa in Regno noſtro in defectum articulorum prædictorum, minus plene obſervatorum de die in diem plus ſolito perpetrantur. Nos hujuſmodi damnis & periculis obviare volentes, mittimus vobis Statutum illud per nos editum ſub ſigillo noſtro Præcipientes & ſub gravi forisfactura noſtra firmiter injungentes quod omni dilatione poſpoſita Statutum prædictum in pleno Comitatu tuo in ſingulis Hundredis,

Civita-

Civitatibus, Burgis, Feriis, Mercatis, & aliis locis ſolemnibus, quibus omnibus & ſingulis de Com' prad' inde major & celerior notitia & evidentia fieri poterit publicè lege clamari & firmiter teneri facias & omnibus & ſingulis contentis in eodem. Et pro certo ſcias & univerſis & ſingulis de Balliva tua ex parte noſtra ſcire facias, quod exnunc conditiones & pœnas in dicto Statuto contentas de cetero volumus & præcipimus firmiter teneri & inviolabiliter obſervari. Et iſtud mandatum ita celeriter & diligenter exequaris quod ad te & tua tanquam ad mandatorum noſtrorum contemptorem graviter capere non debeamus. Teſte meipſo apud Weſtm' xviij. die Novembris.

Eodem modo mandatum eſt ſingulis Vic' per totam Angliam per diverſa Mandata ſub tenore iſtius Litera precedentis de verbo ad verbum, Teſte ut ſupra.

The

The Statute of 28 Ed. 3. Cap. 11.

"BEcauſe that great Clamour "and grievous Complaints "be made as well by Aliens as by "Deniſens, the Merchants and o-"thers paſſing through the Realm "of *England* with their Merchan-"dizes and other goods, be ſlain "and robbed, and namely now "more than they were wont, "whereof remedy hath not been "made to the Complainants; our "Sovereign Lord the King conſide-"ring the profit which may come "to the ſaid Realm, by coming "and abiding of Merchants Aliens "in the ſame Realm, and the da-"mage and miſchief which to them "and other is done daily by ſuch "Manſlaughters and Robberies, and "willing to provide for the ſurety "and indemnity of Merchants and "others

"others aforesaid, Hath ordained
"and established, by the assent of
"all his Parliament, to the intent
"that Merchants Aliens shall
"have the greater will and cou-
"rage to come into the said Realm
"of *England*, and that remedy
"from henceforth be speedily made
"to such Merchants and others
"robbed, according to the form
"contained in the Statute late made
"at *Winchester*, that is to say, that
"solemn Cry be made in all Coun-
"ties, Hundreds and Markets, Fairs
"and all other places where solemn
"assembly of the people shall be,
"so that none by ignorance shall
"excuse him, that every Country
"from henceforth be so kept, that
"immediately after Felonies and
"Robberies done fresh suit be made
"from Town to Town, and from
"Country to Country, and Inquests,
"if need be, shall be also taken in
"the Towns by him which is Sove-
"reign of the Town, and after in
"Hundreds, Franchises, and in the
"County, and sometime in two,
"three or four Counties, in case

"when

"when Felonies shall be done in
"the Marches of the Counties, so
"that the Offenders may be attain-
"ted; and if the Country doth not
"answer of such manner of Offen-
"ders, the pein shall be such, that
"every Country, that is to say,
"the people dwelling in the Coun-
"try, shall answer of the Robbe-
"ries done, and of the damages,
"so that all the Hundred where
"the Robbery shall be done, with
"the Franchises which be within
"the precinct of the same Hundred,
"shall answer of the Robbery done;
"and if the Robbery be done in the
"Devises of two Hundreds, both
"Hundreds shall answer, together
"with the Franchises; and longer
"term shall not the Country have
"after the Robbery or Felony done
"than forty days, within which
"them behooveth to make gree of
"the Robbery or of the Offence, or
"that they answer of the Bodies of
"the Offenders.

The Statute of 27 Eliz. *Chap.* 11.

Of Huy and Cry.

"WHereas by two ancient Sta-
"tutes, the one made in
"the Parliament holden at *Winche-*
"*ſter*, in the thirteenth year of the
"reign of King *Edward* the Firſt,
"and the other in the eight and
"twentieth year of the reign of
"King *Edward* the Third, it was,
"for the better ſuppreſſing of Rob-
"beries and Felonies (amongſt
"other things) enacted to this
"effect, That if the Country do
"not anſwer for the bodies of ſuch
"Malefactours, that then the pein
"ſhould be ſuch, that is to wit,
"That the people dwelling in the
"Country, ſhall be anſwerable for
"the Robberies done, and the da-
"mages: ſo that the whole Hun-
"dred where the Robbery ſhall be

"done, with the Franchiſes which
"are within the precinct of the
"ſame Hundred, ſhall anſwer the
"Robberies done. And if the Rob-
"bery chance to be done in the di-
"viſion of two Hundreds, that then
"both the Hundreds together, with
"the Franchiſes within the precinct
"of them, ſhall be anſwerable, as
"in the ſaid two ſeveral Statutes
"it doth more at large appear.
"Foraſmuch as the ſaid parts of
"the ſaid ſeveral Statutes being of
"late days more commonly put in
"execution than heretofore they
"have been, are found by experi-
"ence to be very hard and extreme
"to many of the Queens Majeſties
"good Subjects, becauſe by the
"ſame Statutes they do remain
"charged with the penalties there-
"in contained, notwithſtanding
"their unability to ſatisfie the ſame,
"and though they doe as much as
"in reaſon might be required in
"purſuing ſuch Malefactours and
"Offenders, whereby both large
"ſcope of negligence is given to
"the Inhabitants and Reſiants in

"other

"other Hundreds and Counties,
"not to profecute the Huy and
"Cry made, followed and brought
"unto them, by reaſon they are
"not chargeable for any portion
"of the goods robbed, nor with
"any damages in that behalf gi-
"ven, and alſo great incourage-
"ment and imboldening is like-
"wiſe given unto the Offenders to
"commit daily more Felonies and
"Robberies, as ſeeing it in manner
"impoſſible for the Inhabitants and
"Reſiants of the ſaid Hundred and
"Franchiſes wherein the Robbery
"is committed, to apprehend them
"without the aid of the other
"Hundreds and Counties adjoi-
"ning, and for that alſo that the
"party robbed having remedy by
"the aforeſaid Statutes, for the
"recovering of his goods robbed,
"and damages againſt the Inhabi-
"tants and reſiants of the Hundred
"wherein the Robbery was com-
"mitted, is many times negligent
"and careleſs in proſecuting and
"purſuing the ſaid Malefactours
"and Offenders: Our Sovereign

"Lady the Queens Majeſty, not
"willing therefore that her people
"ſhould be impoveriſhed by any
"ſuch pein or penalty, which ſhould
"be hard or grievous to them, and
"have ſpecial regard to abate the
"power of Felons, and to repreſs
"Felonies, doth for remedy here-
"of, with the conſent of the Lords
"Spiritual and Temporal, and of
"the Commons of this preſent
"Parliament aſſembled, and by the
"authority of the ſame Parliament
"eſtabliſh and enact, That the In-
"habitants and Reſiants of every
Hundred. "or any ſuch Hundred, (with the
"Franchiſes within the precinct
"thereof) wherein negligence,
"fault or defect of purſuit, and
Freſh ſuit. "freſh ſuit, after Huy and Cry
Huy and Cry. "made, ſhall happen to be, from
"and after forty days next after
"the end of this preſent Seſſion of
"Parliament, ſhall anſwer and ſa-
Moiety. "tisfie the one moiety or half of all
"and every ſuch ſum and ſums of
"money and damages, as ſhall by
"force or virtue of the ſaid Sta-
"tutes or either of them be reco-
"vered

"vered or had, againſt or of the
"ſaid Hundred, with the Franchi-
"ſes therein, in which any Robbe-
"ry or Felony ſhall at any time
"hereafter be committed or done.
"And that the ſame moiety ſhall
"and may be recovered by Action
"of Debt, Bill, Plaint or Infor-
"mation, in any of the Queens
"Majeſties Courts of Record at
"*Weſtminſter*, by and in the name
"of the Clerk of the Peace for the *Clerk of*
"time being, of or in any ſuch *the Peace.*
"County within this Realm, where
"any ſuch Robbery and recovery
"by the party or parties robbed
"ſhall be, without naming the Chri-
"ſtian name or Sirname of the ſaid
"Clerk of the Peace, which moie-
"ty ſo recovered, ſhall be to the
"onely uſe and behoof of the Inha-
"bitants of the ſaid Hundred, where
"any ſuch Robbery or Felony ſhall
"be committed or done. And be
"it further enacted by the authori-
"ty aforeſaid, That if any Clerk
"of the Peace, of or in any Coun-
"ty within this Realm ſhall at
"any time hereafter commence

" or prefer any ſuch Suit, Action,
" or Information, and ſhall after
" the ſame ſo ſued, commenced, or
" preferred, happen to die, or to
" be removed out of his Office, be-
" fore recovery and execution had:
" That yet no ſuch Action, Suit,
" Bill, Plaint or Information, ſued,
" commenced, or preferred, ſhall
" by ſuch diſplacing or death, be
" abated, diſcontinued or ended,
" but that it ſhall and may be law-
" full to and for the Clerk of the
" Peace next ſucceeding in the ſaid
" County, to proſecute, purſue and
" follow all and every ſuch Action,
" Bill, Plaint, Suit and Informati-
" on, for the cauſes aforeſaid, ſo
" hanging and depending in ſuch
" manner and form, and to all in-
" tents and purpoſes, as that Clerk
" of Peace might have done which
" firſt commenced or preferred the
" ſaid Suit, Bill, Plaint or Informa-
" tion. And although the whole
" Hundred where ſuch Robberies
" and Felonies are committed, with
" the Liberties within the precinct
" thereof, are by the two former

" Statutes

"Statutes charged with the anſwe-
"ring to the party robbed his da-
"mages: yet nevertheleſs the re-
"covery and execution, by and for
"the party and parties robbed, is
"had againſt one, or a very few
"perſons of the ſaid Inhabitants,
"and he and they ſo charged, have
"not heretofore by Law had any
"mean or way to have any contri- *Contribu-*
"bution of or from the reſidue of *tion.*
"the ſaid Hundred, where the ſaid
"Robbery is committed, to the
"great impoveriſhing of them a-
"gainſt whom ſuch recovery or
"execution is had. For remedy
"whereof, be it enacted by the au-
"thority aforeſaid, That after ex-
"ecution of damages by the party
"or parties ſo robbed had, it ſhall
"and may be lawfull (upon com-
"plaint made by the party or par-
"ties ſo charged) to and for two
"Juſtices of the Peace, (whereof *Juſt. of P.*
"one to be of the *Quorum*) of the
"ſame County, inhabiting within
"the ſaid Hundred, or near unto
"the ſame, where any ſuch execu-
"tion ſhall be had, to aſſeſs and

Tax. "tax ratably and proportionably,
"according to their diſcretions,
"all and every the Towns, Pari-
"ſhes, Villages and Hamlets, as
"well of the ſaid Hundred where
"any ſuch Robbery ſhall be com-
"mitted, as of the Liberties with-
"in the ſaid Hundred, to and to-
"wards an equal contribution to
"be had and made for the relief of
"the ſaid Inhabitant or Inhabitants,
"againſt whom the party or par-
"ties robbed before that time had
"his or their execution: And that
"after ſuch taxation made, the
Conſtables, Headboroughs. "Conſtables, Conſtable, Headbo-
"roughs or Headborough of every
"ſuch Town, Pariſh, Village and
"Hamlet, ſhall by virtue of this
"preſent act, have full power and
"authority within their ſeveral
"limits, ratably and proportio-
Tax. "nably to tax and aſſeſs according
"to their abilities, every Inhabi-
"tant and dweller in every ſuch
"Town, Pariſh, Village and Ham-
"let, for and towards the payment
"of ſuch taxation and aſſeſſment as
"ſhall be ſo made, upon every ſuch
"Town,

"Town, Pariſh, Village and Ham-
"let as aforeſaid, by the ſaid Ju-
"ſtices: and that if any Inhabitant
"of any ſuch Town, Pariſh, Vil-
"lage or Hamlet, ſhall obſtinately
"refuſe and deny to pay the ſaid *Refuſe.*
"taxation and aſſeſſment, ſo by the
"ſaid Conſtables, Conſtable, Head-
"boroughs or Headborough taxed
"and aſſeſſed, that then it ſhall and
"may be lawfull to and for the ſaid
"Conſtables and Headboroughs, and
"every of them within their ſeve-
"ral limits and juriſdictions, to
"diſtrein all and every ſuch per- *Diſtrein.*
"ſon and perſons ſo refuſing and
"denying by his and their goods
"and chattels, and the ſame diſtreſs
"to ſell, and the money thereof
"coming to retain to the uſe afore-
"ſaid. And if the goods and chat-
"tels ſo diſtreined and ſold, ſhall
"be of more value than the ſaid
"taxation ſhall come unto, that
"then the reſidue of the ſaid money
"over and above the ſaid taxation
"ſhall be delivered unto the ſaid
"perſon and perſons ſo diſtreined.
"And be it further enacted, that

Conſtables. Headboroughs. "all and every the ſaid Conſtables "and Headboroughs, after that "they have within their ſeveral li- "mits and juriſdictions levied and "collected their ſaid rates and ſums "of money ſo taxed, ſhall within "ten days after ſuch collection pay "and deliver the ſame over unto "the ſaid Juſtices of Peace, or one "of them, to the uſe and behoof "of the ſaid Inhabitant or Inhabi- "tants, for whom ſuch rate, taxa- "tion and aſſeſſment ſhall be had "or made as aforeſaid: which mo- "ney ſo paid, ſhall by the Juſtices "or Juſtice ſo receiving the ſame, "be delivered over (upon requeſt "made) unto the ſaid Inhabitant "or Inhabitants, to whoſe uſe the "ſame was collected. And be it "further enacted by the authority "aforeſaid, that the like taxati- "on, aſſeſſment, levying by diſtreſs "and payment as aforeſaid, ſhall "be had and done within every *Hundreds.* "Hundred where default or negli- "gence of purſuit and freſh ſuit "ſhall be, for and to the benefit "of all and every Inhabitant and

"Inha-

" Inhabitants of the ſame Hundred,
" where ſuch default ſhall be, that
" ſhall at any time hereafter by
" virtue of this preſent Act, have
" any damages or money levi-
" ed of them, for or to the pay-
" ment of the one moiety or half
" of the money recovered againſt
" the ſaid Hundred, where any
" Robbery ſhall be hereafter com-
" mitted. Provided, alſo, and be
" it further enacted by the authori-
" ty aforeſaid, that where any
" Robbery is, or ſhall be hereafter *Robbery.*
" committed by two, or a grea-
" ter number of Malefactours, and
" that it happen any one of the ſaid
" Offenders to be apprehended by *Offender*
" purſuit to be made according to *taken.*
" the ſaid former mentioned Laws
" and Statutes, or according to this
" preſent Act, that then and in ſuch
" caſe, no Hundred or Franchiſe
" ſhall in any wiſe incur, or fall in-
" to the penalty, loſs or forfeiture
" mentioned either in this preſent
" Act, or in the ſaid former Sta-
" tutes, although the reſidue of the
" ſaid Malefactours ſhall happen to
" eſcape,

"escape, and not to be apprehended: any thing in this Statute, "or in the said former Statute to "the contrary notwithstanding. "Provided also, that no person or "persons hereafter robbed shall take "any benefit by virtue of any the "said former Statutes, to charge "any Hundred where any such "Robbery shall be committed, except he or they so robbed, shall "commence his or their Suit or *One year.* "Action within one year next after "such Robbery so to be committed. "And be it further enacted by the "authority aforesaid, that no Huy "or Cry, or pursuit hereafter to "be done or made by the Country "or Inhabitants of any Hundred, "shall be allowed and taken to be "a lawfull Huy and Cry, or pursuit, "upon or after any the said Felons "or Offenders, except the same "Huy and Cry and pursuit be done *Horsemen and Footmen.* "and made by Horsemen and Footmen, any usage or custom to the "contrary notwithstanding. And "be it further also enacted by the "authority of this present Parliament,

"ment, that no perſon or perſons
"that ſhall hereafter happen to be
"robbed, ſhall have or maintain
"any Action, or take any benefit
"by virtue of the ſaid two mentio-
"ned Statutes, or either of them,
"except the ſaid perſon and per-
"ſons ſo robbed, ſhall with as much
"convenient ſpeed as may be, give
"notice and intelligence of the ſaid
"Felony or Robbery ſo commit-
"ted, unto ſome of the Inhabitants
"of ſome Town, Village or Ham-
"let near unto the place where any
"ſuch Robbery ſhall be committed,
"nor ſhall bring or have any Acti-
"on, upon or by virtue of any the
"Statutes aforeſaid, except he or
"they ſhall firſt within twenty days
"next before ſuch Action to be
"brought, be examined upon his
"or their corporal Oath, to be ta- *Oath.*
"ken before ſome one Juſtice of the
"Peace of the County, where the
"Robbery was committed, inha-
"biting within the ſaid Hundred
"where the Robbery was commit-
"ted, or near unto the ſame, whe-
"ther he or they do know the par-
"ties

" ties that committed the ſaid Rob-
" bery, or any of them. And if
" upon ſuch examination it be con-
" feſſed that he or they do know
" the parties that committed the
" ſaid Robbery, or any of them,
" that then he or they ſo confeſſing
" ſhall before the ſaid Action be
" commenced or brought, enter
" into ſufficient bond by Recogni-
Recogni- " ſance before the ſaid Juſtice, be-
ſance. " fore whom the ſaid examination
" is had, effectually to proſecute
" the ſame perſon and perſons ſo
" known to have committed the
" ſaid Robbery, by Indictment or
" otherwiſe, according to the due
" courſe of the Laws of this Realm.
" *Anno* 27 *Eliz.* cap. 13.

Judicial

Judicial proceedings on the Statute of Huy and Cry, or choice Precedents in all cases therein from the Original to Execution.

Breve originale super Statut' de Hutes' & Clam'.

Carolus Secundus, Dei gratia, Angliæ, Scotiæ, Franciæ & Hiberniæ Rex, Fidei defensor, &c. Vic' D. salutem, si A. B. nuper de C. in Com' tuo gen' fec' te secur' de Clam' suo pros' tunc Pone per vad' & salvos pleg' Homines Inhabitan' in Hundred' de O. in Com' tuo quòd sint coram, &c. (tali Retorn') ostens' quare cum in Statuto in Parliamento Domini Edwardi nuper Regis Angliæ primi apud Winton' anno regni sui tertiodecimo tent' edit' (inter cætera) ordinat' sit pro eo quòd de die in diem Roberiæ, Homicidia & Incendia plus solito tunc fiebant quàm antea solebant & Felones non potuissent esse attinct' per sacrm' Jur' qui magis voluntarie permittebant Felonias fieri de gentibus extraneis, & Felones evadere

evadere absq; pœna quàm Malefactores indictari, unde magna pars fuerunt gentes de eadem Patria, vel adminus si Malefactores fuerunt de alia Patria eorum Receptores fuerunt de Visneto ubi hujusmodi malefacta fiebant. Et hoc faciebant pro eo quod sacrm' eisdem Juratoribus non ministrabantur nec in Patria ubi Felonia illa fiebant & quoad restitutionem damnorum pœna antetunc non fuit provis' pro concelamento & negligentia suis. Idem nuper Rex ad debilitand' posse Felonum stabilivit pœnam in illo casu. Ita quòd pro timore pœna plusquam pro pavore Sacramenti nullis extunc parcerent nec aliquas Felonias concelarent. Et mandavit quòd Proclamatio solemniter fieret in omnibus Com' Hundred' Mercat' Feriis & omnibus aliis locis ubi solemnis assemblatio gentium foret sic quod nullus pro ignorantia se possit excusare. Et quod quælibet Patria extunc sic posset custodiri quod immediate post Roberiat & Felonias factas recens insecutio fieret de Villa in Villam & de Patria in Patriam ac etiam Inquisitiones fierent si necesse foret in Villis per ipsum

qui

qui superior esset de Villa. Et postea in Hundred' Franches' & in Com'. Et aliquando in duobus, tribus vel quatuor Com' in casu quando Felonia fact' fuer' in Marchiis Com' ita quod Malefactores potuissent esse attinct'. Et si Patria de hujusmodi Malefactoribus non responderet pœna talis esset quod quælibet Patria scilicet homines in Patria commorantes responderent de Roberiis factis & damnis sic quod totum Hundredum ubi Roberia illa facta foret cum Franches' qua essent infra precinct' ejusdem Hundred' responderent de Roberiis factis. Et si Roberia illa facta foret in divisis duorum Hundred' responderent inde duo Hundred' cum Franches'. Et longiorem terminum non haberet Patria pass' Roberiam & Felonias factas quam quadraginta dies infra quos faceret emendas de Roberia & malefactis vel responderet de corporibus Malefactorum prout in Statuto plenius continetur. Ac cum quidam Malefactores præfat' A. B. ignoti in quodam loco ibidem vocat. B. infra Hundred' de O. in Com' tuo vi & armis, &c. in ipsum A. B. insultum fecer' & 20li.

in

in pecuniis numeratis de denariis ipsius A. B. propriis ibidem invent' de eodem A. B. Felonice perceperunt, spoliaverunt & asportaverunt contra pacem nostram. Idemque A. B. immediate post Feloniam, Roberiam & spoliationem prad' fact' apud B. prad' infra Hundred' de O. prad' Hues' & Clam' de Roberia & Felonia prad' fecit & adtunc notitiam ibidem Inhabitan' ejusdem Villa de O. prad' de Roberia & Felonia prad' fact' dedit. Et post Roberiam & Feloniam il' ac infra 20 dies ante diem impetrationis brevis original' prad'. Idem A. B. coram E. F. Ar' tunc uno Justic' nostrorum ad pacem in prad' Com' D. conservand' assign' inhabitan' apud L. prope prad' Hundred' de O. prad. in Com' tuo examinat' fuit super sacrm' suum corporale juxta formam Statuti apud Westm' anno regni Domine Elizabetha nuper Regina Anglie vicesimo septimo inde edit' & provis'. Idemque A. B. super sacrm' suum prad' tunc dixit quod ipse non cognovit partes qua Roberiam illam fecissent nec earum aliquam. Et post Roberiam illam factam quadraginta

dies

dies jam præterierunt. Iidem tamen homines inhabitantes in Hundred' præd' Emendas de Roberia præd' præfat' A. B. hucusque non fecerunt nec corpora Felonum & Malefactorum præd' nec corpus eorum alicujus ceperunt nec de corporibus eorum seu de corpore eorum alicujus hucusque responderunt sed Malefactores & Felones ill' evadere permiserunt in nostri contemptum & ipsius A. B. grave dampnum & contra formam Statuti prædicti de anno tertiodecimo suprædicto. Et habeas ibi nomina Pleg' & hoc breve Teste meipso apud Westm', &c.

Plegii de pros' J. Doo, R. Roo } *Sum' infra nominat' Inhabitan' in Hundred' de O. in Com' infrascript.* Retorn' inde.

G. H. *Ar' Vic'.*

Devon.

Narr' inde. *Devon' ss.* HOmines inhabitantes in Hundredo de O. in Com' predicto attach' fuer' ad respondend' A. B. gen' de p'lito quare cum in Statuto in Parliamento, &c. (ut supra usque) vel responderet de corporibus Malefactorum prout in Statuto predicto plenius continetur: ac cum quidam Malefactores prefato A. ignoti apud O. in Com' predicto in quodam loco ibidem vocat' B. (ut supra usque) & contra formam Statuti predicti, &c. Et unde idem A. per G. F. Attorn' suum queritur quod cum quidam Malefactores videlicet quatuor Homines eidem A. ignot' 19 die J. anno Regni dict' Domini Regis nunc 33 apud O. in Com' predicto in quodam loco ibidem vocat' B. &c. (ut supra usque) Et post Roberiam & Feloniam ill' fact' & infra 20 dies prox' ante diem impetrationis brevis originalis predicti A. scilicet 20 die J. anno Regni Domini Regis nunc 33 predictus A. coram predicto E. F. Ar. tunc uno Justic', &c. (ut supra usque) Et post Roberiam illam fact' & ante diem

diem impetrationis brevis originalis predicti A. 40 dies jam scilicet die impetrationis brevis originalis ipsius A. preterierunt, &c. (ut supra usque) contra formam Statuti predicti, unde dic' quod deteriorat' est & damnum habet ad valenc', &c. Et inde produc' sectam, &c.

11. *HOmines inhabitan' infra Hundred' de A. & B. in Com' predicto attach' fuer' ad respondend' tam Domino Regi nunc quam C. D. gen' de p'lito quare cum in Statuto (ut in Or' usque) ac cum quidam Malefactores prefat' C. ignot'. in Regia via infra parochiam de B. in Com' predicto (qua quidem Regia via est in divisis Hundredorum) vi & armis (ut in Or' usque) Idemque C. immediate post Feloniam, &c. fact' apud Villam de H. in predicto Com' M. (qua quidem Villa de H. est prope predictum locum ubi Roberia predicta sic ut prefertur facta fuit) Hutes' & Clam' de Roberia & Felonia prad' fecit. Et adtunc & ibidem notitiam inhabitantibus ejusdem Villæ de H. de Roberia & Felonia illis dedit, &c. (ut in Or'.)* Alter in divisis Hundredorum.

Barr'

Barr' ſur Statut' de Hutes' & Clam'.

Non cul. ove chal-lenge de Hundred'.

ſſ. *ET prædicti homines inhabitan' in Hundredo prædicto per A. B. Attorn' ſuum ven' & defend' vim & injur' & ommem contemptum. Et quicquid, &c. Et dic' quod ipſi in nullo ſunt culpabiles de premiſſis ſuperius eis impoit' contra formam Statuti prædicti prout prædictus quer' ſuperius verſus eos queritur. Et de hoc pon' ſe ſuper Patriam & prædictus quer' ſimiliter. Et ſuper hoc idem quer' dic' quod præd' homines inhabitan' in prædicto Hundredo de W. ubi Roberia illa facta fuit ſunt partes defendentes verſus quos idem quer' in forma prædicta queritur. Et ea de cauſa pet' breve Domini Regis Vic' Com' præd' dirigend' de venire faciend' hic duodecim, &c. de Viſn' Hundredi de O. præd' in Com' præd' (quod quidem Hundredum de O. eſt prox' Hundredum in eodem Com' prædict' Hundredo de W. prox' adjacen')*

jacen') ad triand' exitum predictum superius in forma predicta junct'. Et quia homines inhabitan' in predicto Hundredo de W. hoc non dedic' ei conceditur, &c. Ideo preceptum est Vic' quod venire fac' hic in Crastino sanctæ Trin' de Visn' de predicto Hundr' de O. duodecim, &c. per quos, &c. Et qui nec, &c. ad recogn', &c. quia tam, &c.

Verdict & Judgment pur le pl't.

ff. ET *predicti inhabitantes per A. B. attorn' suum ven' & defend' vim & injur' & omnem contemptum. Et quicquid, &c. Et dic' quod predictus quer', &c. Quia protestando quod predictus quer' non spoliatus fuit Protestandoque etiam quod predictus quer' per spoliationem predictam non perdidit aliqua bona sive catalla vel pecuniarum summas prout predictus quer' superius allegavit. Pro placito iidem inhabitan' dicunt quod predictus quer' immediate post Feloniam, Roberiam & spoliationem predictas superius fieri suppositas apud A. predict' non fecit Hutesiam & Clamorem de Roberia predicta secundum formam Statuti predicti prout ipse*

Barr' per nul Huy & Cry fait.

ipse superius allegavit. Et hoc parati sunt verificare unde petunt Judicium si predictus quer' actionem suam predictam versus eos habere debeat, &c.

Non inform' sur Stat. de Huy & Cry, ove Judgment puis brief de Inquiry.

Et predicti homines inhabitantes in Hundredo predicto per C. D. attorn' suum ven' & defend' vim & injur' quando, &c. Et quicquid, &c. Et idem attorn' dic' quod ipse non est inform' per eosdem homines inhabitan' in Hundredo predicto de aliquo Respons' pro eisdem hominibus inhabitan' in Hundredo predicto prefat' quer' in loquela predicta dand'. Et nihil aliud inde dic' per quod idem quer' remanr' versus prefat' homines inhabitan' in Hundredo predicto inde indefens' ob quod predictus quer' damna sua occasione premissa versus prefat' homines inhabitan' in Hundredo predicto recuperare debeat, sed quia nescitur quæ damna idem quer' sustinuit occasione illa præceptum est Vic' quod per Sacramentum proborum & legalium hominum de Com' predicto diligenter inquirat quæ damna idem quer' sustinuit tam

tam occasione premissa quàm pro mis' & custagiis suis per ipsum circa sectam suam in hac parte apposit'. Et Inquisitionem quam, &c. Vic' constare fac' hic à die Paschæ in quindecim dies sub sigillo, &c. Et sigillis, &c. Et Vic' videlicet A. B. Ar' modo mand' hic quandam Inquisitionem coram eo apud Brentford in Com' predicto (tali die & Mense) ult' preterit' per sacrm' duodecim, &c. virtute brevis predicti capt' per quam compert' exist it quod predictus quer' sustinuit damna occasione premissa ultra mis' & custagia sua per ipsum circa sectam suam in hac parte apposit' ad triginta libras. Et pro mis' & custagiis illis ad decem solid'. Ideo cons' est quod predictus quer' recuperet versus præfat' homines inhabitan' in Hundredo predicto damna sua predicta ad triginta libras & decem solidos per Inquisitionem predictam in forma predicta compert' necnon duodecim libras eidem quer' ad requisitionem suam pro missis & custagiis suis predictis per Cur' hic de inc'ro adjudicat'. Que quidem damna in toto se attingunt ad quadra-

ginta duas libras & decem denar'. Et prædicti homines inhabitan' in Hundredo prædicto in mia', &c.

Judgment ſur Statute de Hue & Cry puis Verdict.

ſſ. *IDeo cons' eſt quod prædictus quer' recuperet verſus præfat' homines inhabitan' in Hundredo prædicto damna ſua prædicta ad, &c. per Jur' prædictos in forma prædicta aſſeſs' necnon, &c. eidem quer' qui tam, &c. ad requiſitionem ſuam pro mis' & cuſtagiis ſuis prædictis per Cur' hic de inc'ro adjudicat'. Que quidem damna in toto ſe attingunt ad, &c. Et prædicti homines inhabitan' in mia', &c.*

Venire

Venire Facias upon the Statute of Huy and Cry.

ſſ. PRæcip' tibi quod *Ven' Fac'* co- Ven' Fac'.
ram, &c. *duodecim liberos & legales homines de Viſn' Hundred' de O. in Com' D. quorum quilibet habeat 4li. terr', &c. per quos, &c. Et qui nec A. B. qui tam pro nobis quam pro ſeipſo ſequit' quer' nec homines inhabitan' in Hundredo de O. in Com' D. aliqua affinitate attingunt ad faciend' quandam Jur' inter partes prad' de placito tranſgr' & contempt' contra formam Stat' de Hutes' & Clam' in hujuſmodi caſu inde nuper edit' & provis' quia tam iidem homines inhabitan' in Hundredo prad' quam nos & prad' R. inter quos inde contentio eſt poſuer' ſe in jurat' illam. Et habeas ibi nomina Jur' & hoc breve T. &c.*

ſſ. PRæcip' tibi quod *diſtr' homines* Diſtr' Jur'.
inhabitan' in Hundred' de O. in Com' tuo per omnes, &c. ita quod

habeas corpora eorum coram, &c. ad resp' tam nobis quam A. B. quare cum in Statuo in Parliamento Domini Edvardi nuper Regis Anglie, primi (ut in Or' usque) & contra formam Statuti de anno 13 prad'. Et ad audiend' judicium suum de plur' defalt'. Et habeat, &c.

Retorn'. *Manucapt' infra nominat' hominum inhabitan' in Hundred' de O. infrascript'*

J. Doo } *Exit' xli.*
R. Roo }

E. H. *Ar' Vic'.*

Inquir' de dam in Transgr. & contempt' sur Stat' de Hutes' & Clam'.

Salutem. Cum homines inhabitan' in Hundred' de O. in Com' tuo attach' essent essend' in Cur' nostra coram, &c. ad respondend' tam nob' quam R. B. de placito quare cum in Statuto in Parliamento Domini Edvardi, &c. Et contra formam Statuti prad' de anno 13. prad' Taliterq; in Cur' nostra coram, &c. processi est quod prad' R. damna sua occasione

ne

ne premissa versus prefat' homines inhabitan' infra pred' Hundred' de O. recuperare debeat. Et quia Cur' nostra incognit' existit que damna pred' R. tam occasione premis' quam pro mis' & custagiis suis per ipsum circa sectam suam in hac parte apposit' sustinuit tibi precipimus quod per sacr'm proborum & legalium hominum de balliva tua diligent' inquiras que damna pred' R. tam occasione premis' quam pro mis' & custagiis suis pred' sustinuit. Et Inquisitionem ill' sic per te distincte & aperte capt' Nob' sub sigillo tuo & sigillis eorum per quorum sacr'm Inquisition' illam feceris in (tali Retorn') ubicunque tunc fuerimus in Anglia mittas una cum hoc brevi Teste, &c.

The Oath to be taken before a Justice of the Peace by the person or persons who were robbed whereupon the party robbed may ground his Action, according to the Statute of 27 Eliz.

The 20th *day of* January, 1681.

Mid. THE day and year above-said *A. B.* of *C.* in the County of *D.* Gent. came before *E. F.* Esq; one of his Majesties Justices of the Peace in the said County of *D.* and made Oath, That Monday morning, being the 19th day of this instant *January*, about 8 of the Clock, the said *A. B.* and one *L. M.* of *London*, Merchant, came from *B.* where they lay the night before at the Sign of the *King's Head* there, and dined at *C.* at the *Queen's Head* there, and about two of the Clock went from thence towards

wards *D.* and about five or six miles off from the Town, there overtook them in the High-way, between a place called *Johnson's* Oak and the Park Wall of *L. T.* Esq; four Horsemen, one whereof, *&c.* (describing them by their Persons, Habits and Horses) which said four Horsemen set upon this Examinant and robbed him, taking from him by force the Sum of, *&c.* and the said *A. B.* being examined whether he knoweth the said parties or any of them which so robbed him, he saith and deposeth that he doth not know them or any of them.

A. B.

Jurat' die & anno supradict' coram me E. F.

FINIS.

A Catalogue of Books sold by Langley Curtis, *at the Sign of Sir* Edmundbury Godfrey's Head *in* Goat-Court *on* Ludgate-Hill.

THE *History* of the *Damnable Popish Plot*. Written by the Authour of *The weekly Pacquet of Advice from Rome*. (H. Care)

The *Life* and *Reign* of King *Richard* the Second. By a Person of Quality.

Popery; or, The *Principles* and *Positions* approved by the Church of *Rome* (when really believ'd and practis'd) are very dangerous to all, and to *Protestant Kings* more especially, and inconsistent with Loyalty. By *T.* Lord Bishop of *Lincoln*.

Supplications of *Protestants*, containing the *Life* of Sir *Edmundbury Godfrey*,

Godfrey, with *Private* and *Family Devotions*; also *Prayers* against *Popery*, with *Thanksgivings* and *Graces*. By *Henry Godfrey*, M. A.

A Compendious *Treatise* of *Recoveries* upon Writs of Entry in the Post, and Fines upon Writs of Covenant, with ample instructions how to draw, acknowledge and levy the same in all Cases.

The *Astrological Judgment* and *Practice* of *Physick*, deduced from the Position of the Heavens at the Decumbiture of the Sick Person, shewing by an universal Method, not onely the Cause, but the Cure and End of all manner of Diseases incident to humane Bodies: being the thirty years Practice and Experience of *Richard Saunders*, Student in *Astrology* and *Physick*.

England's Remarques, giving an exact account of the several Shires, Counties and Islands in *England* and *Wales*, how Bounded, their Length, Breadth and Circumference; the temperature of the Air, and fertility or barrenness of Soil; the Commodities they afford; the Dioceses, Pari-

Parishes, Parliament Men, Hundreds and Markets; and whatever else is remarkable throughout the whole Kingdom.

The *Protestant School*, or *Forms of Prayer*, *Psalms*, *Lessons*, *Thanksgivings* and *Graces*, for the bringing up and well-grounding Children and elder Persons in the *Protestant Religion*. By Bishop *Usher*. Also a Catalogue of all *English* Words, from one to eight Syllables, divided and not divided, teaching the readiest way to Spell, Reade and Write *true English*. To which is added, an *Historical Account* of several *Plots* and *remarkable Passages*, lively represented in *Copper Plates*. By *Moses Lane*, Schoolmaster in *London*.

An *Alarm for Sinners*; or the *Confession*, *Prayers*, *Letters* and *last words* of Mr. *Foulkes*, late Minister of *Stanton-Lacy*.

The *Character* of an *Ill-Court-Favourite*, representing the *Michiefs* that flow from *Ministers of State* when they are more *great* than *good*. Translated out of *French*.

Mr. *Tur-*

Mr. *Turbulent*; or, the *Melancholicks*: a Comedy, as it was acted at the *Duke's Theatre*.

The *Medal Revers'd*; a *Satyr* against *Persecution*. By the Authour of *Azaria* and *Hushai*.

Azaria and *Hushai*; a Poem.

The *Clerk's Manual*; or, an exact Collection of the most approved Forms of Declarations, Pleas, general Issues, Judgments, Demurrers, and most kind of Writs now used in the Court of *Kings Bench*, with necessary instructions to all *Clerks*, *Attorneys*, *Solicitours*, &c. in the use of the same.

The plain *Englishman's Historian*, or, a Compendious Chronicle of *England*, from its first being inhabited to this present year, 1679. But more especially containing the chief Remarques of all our Kings and Queens since the Conquest, their Lives and Reigns, Policies, Wars, Laws, Successes and Troubles: With the most notable Accidents, as Dearths, Tempests, Monstrous Births, and other Prodigies that happened in each of their times respectively.

A *Sy-*

Books sold by Langley Curtis.

A *Synopsis* of *Heraldry*; or, The most plain, short and easie way for the perfect attaining of that Art, containing all necessary directions in order thereunto: There being about 300 Coats of Arms, and about 50 Crests engraven upon Copper Plates; and the Atchievements of the Kings of *England* since King *Egbert* of the Saxon Race. The Paternal Coats of the Nobility of *England* [with a List of the Knights of the Garter] The Arms of the Archiepiscopal and Episcopal Sees, and of the two Universities, and the several Colleges in them; and of the Inns of Court, and other Houses of Law in *London*; with some hundreds of Gentlemens Coats, all truly Blazon'd. To which is added an Alphabetical Table for the ready finding any name whose Coat is herein Blazon'd.

THE END.

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